

Request for Proposals

**High Resolution Geophysical Resource Survey
For
the Maryland Energy Administration**

PROJECT NO. DEXR240005



MARYLAND ENERGY
ADMINISTRATION

Issue Date: July 27, 2012

NOTICE

Prospective Offerors who have received this document from the Maryland Energy Administration's web site or eMarylandMarketplace.com, or who have received this document from a source other than the Procurement Officer, and who wish to assure receipt of any changes or additional materials related to this RFP, should immediately contact the Procurement Officer and provide their name and mailing address so that amendments to the RFP or other communications can be sent to them.

Minority Business Enterprises are Encouraged to Respond to this Solicitation

STATE OF MARYLAND
NOTICE TO OFFERORS/CONTRACTORS

In order to help us improve the quality of State proposals solicitations, and to make our procurement process more responsive and business friendly, we ask that you take a few minutes and provide comments and suggestions regarding the enclosed solicitation. Please return your comments with your proposals. If you have chosen not to bid on this Contract, please fax this completed form to: 410-974-2250 to the attention of the Procurement Officer.

Title: **High Resolution Geophysical Resource Survey**

Project No: DEXR240005

1. If you have responded with a "no bid", please indicate the reason(s) below:

- ☐ Other commitments preclude our participation at this time.
- ☐ The subject of the solicitation is not something we ordinarily provide.
- ☐ We are inexperienced in the work/commodities required.
- ☐ Specifications are unclear, too restrictive, etc. (Explain in REMARKS section.)
- ☐ The scope of work is beyond our present capacity.
- ☐ Doing business with Maryland Government is simply too complicated. (Explain in REMARKS section.)
- ☐ We cannot be competitive. (Explain in REMARKS section.)
- ☐ Time allotted for completion of the bid/proposals is insufficient.
- ☐ Start-up time is insufficient.
- ☐ Bonding/Insurance requirements are restrictive. (Explain in REMARKS section.)
- ☐ Bid/Proposals requirements (other than specifications) are unreasonable or too risky. (Explain in REMARKS section.)
- ☐ MBE requirements. (Explain in REMARKS section.)
- ☐ Prior State of Maryland Contract experience was unprofitable or otherwise unsatisfactory. (Explain in REMARKS section.)
- ☐ Payment schedule too slow.

Other: _____

2. If you have submitted a bid or proposal, but wish to offer suggestions or express concerns, please use the Remarks section below. (Use reverse or attach additional pages as needed.)

REMARKS:

Offeror Name: _____ Date: _____

Contact Person: _____ Phone (____) ____ - _____

Address: _____

KEY INFORMATION SUMMARY SHEET

STATE OF MARYLAND

Request for Proposals

**High Resolution Geophysical Resource Survey
for the Maryland Energy Administration**

PROJECT NUMBER DEXR240005

RFP Issue Date: July 27, 2012

RFP Issuing Office: Maryland Energy Administration

Procurement Officer: Maria Ulrich
Office Phone: (410) 260-7752
Fax: (410) 974-2250
e-mail: mulrich@energy.state.md.us

Proposals are to be sent to: Maryland Energy Administration
60 West Street, Suite 300
Annapolis, Maryland 21401
Attention: Maria Ulrich

Pre-Proposal Conference: August 16, 2012 – 10:00AM Local Time
Maryland Energy Administration
60 West Street, Suite 300
Annapolis, Maryland 21401

Closing Date and Time: September 6, 2012– 2:00 PM Local Time

NOTE

Prospective Offerors who have received this document from the Maryland Energy Administration's web site or eMarylandMarketplace.com, or who have received this document from a source other than the Procurement Officer, and who wish to assure receipt of any changes or additional materials related to this RFP, should immediately contact the Procurement Officer and provide their name and mailing address so that amendments to the RFP or other communications can be sent to them.

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SECTION 1 - GENERAL INFORMATION

1.1 Summary Statement

- 1.1.1 The Maryland Energy Administration (MEA) advises the Governor on directions, policies and changes in the various segments of the energy market. Demand/supply competition, technological innovations, and policy changes by the federal government cause major changes in market sensitive energy sectors (e.g., petroleum markets, gas deregulation, and emerging competition in the electric utilities sector). State government must be in position to respond to new opportunities, as well as adjust to any potential dangers. MEA prepares State government to respond to the changing dynamics of the energy industry.
- 1.1.2 It is the State's intention to obtain services to conduct a high-resolution geophysical survey of the area of the Outer Continental Shelf (OCS) designated by the U.S. Department of Interior as the Maryland Wind Energy Area (MD WEA), as well as an additional buffer and potential transmission cable routes, as specified in this Request for Proposals, with a Contract between the successful Offeror and the State. See Attachment L for an OCS map of the designated area.
- 1.1.3 MEA intends to award one Contract to the Offeror whose proposal is deemed to be the most advantageous to the State.
- 1.1.4 An Offeror, or its sub-contractors, must be able to provide all services and meet all of the requirements specified by this solicitation.

1.2 Abbreviations and Definitions

For purposes of this RFP, the following abbreviations or terms have the meanings indicated below:

- a. **Bureau of Ocean Energy Management (BOEM)** – A division of the United States Department of the Interior tasked with management, exploration and development of the nation's offshore resources.
- b. **COMAR** – Code of Maryland Regulations available on-line at www.dsd.state.md.us
- c. **Contract** – The Contract awarded to the successful Offeror pursuant to this RFP. The Contract will be in the form of Attachment A.
- d. **Contract Manager (CM)** – The State's designated representative and point of contact for the management of the scope of work for this project, and who, with the approval of the Procurement Officer, is responsible for directing the Contract's work effort and progress. Functions may include issuing written direction to the Contractor with approval of the Procurement Officer, evaluating compliance with terms and conditions, monitoring

Contract goals and timelines, and in achieving on budget/on time/on target (e.g., within scope) completion of the project.

- e. **Contractor** – The selected Offeror that is awarded a Contract by the State.
- f. **Construction and Operations Plan (COP)** – Detailed submission by a leaseholder to BOEM containing information describing proposed commercial renewable energy activities, including generation, storage, or transmission of electricity or other energy products. COPs should describe all proposed activities and planned facilities, including onshore and support facilities and must be approved by BOEM prior to construction.
- g. **Local Time** – Time in the Eastern Time Zone as observed by the State of Maryland.
- h. **MBE** – A Minority Business Enterprise certified by the Maryland Department of Transportation under COMAR 21.11.03.
- i. **MEA** – Maryland Energy Administration.
- j. **National Marine Fisheries Service (NMFS)** - NOAA's National Marine Fisheries Service is the federal agency, a division of the Department of Commerce, responsible for the stewardship of the nation's living marine resources and their habitat.
- k. **Notice to Proceed (NTP)** - a written authorization issued by the MEA and delivered to the Contractor to begin work on a required deliverables as specified within this RFP.
- l. **Normal State Business Hours** - Normal State business hours are 8:00 a.m. – 6:00 p.m. Monday through Friday except State Holidays, which can be found at: www.dbm.maryland.gov- keyword State Holidays.
- m. **Offeror** – An entity that submits a proposal in response to this RFP.
- n. **Procurement Officer** – The person authorized by the Maryland Energy Administration (the Administration) to issue and administer this RFP, administer the evaluation and selection of the winning proposal, and administer the resulting contract in accordance with the State's Procurement Law as set forth in Division II of the State Finance and Procurement Article of the Annotated Code of Maryland.
- o. **Project Manager** – The person designated as the point-of-contact in the Offeror's proposal with the authority to bind the Contractor and resolve contract matters on behalf of the Contractor.
- p. **Request for Proposals (RFP)** – This Request for Proposals for High Resolution Geophysical Resource Survey for the Maryland Energy Administration, Project Number **DEXR240005**, dated July 27, 2012, including any amendments.
- q. **State** – “State” means the State of Maryland.
- r. **Study Area** - An area that includes the Maryland Wind Energy Area, as well as a 1,000' buffer intended to reflect potential project locations and any potential local effects caused by construction, scour or sediment transport. See Attachment O.
- s. **Maryland Wind Energy Area (WEA)** – Area of the Outer Continental Shelf defined in the Maryland Call for Information and Nominations, published in the Federal Register on February 3, 2012 under Docket ID: BOEM-2011-0058, available on the BOEM website(See:

http://www.boem.gov/uploadedFiles/BOEM/Renewable_Energy_Program/State_Activities/MD%20Call%20Map%20Without%20NOAA%20chart.pdf) and attached as Attachment L to this RFP.

1.3 Contract Type

The Contract that results from this RFP shall be Fixed Price in accordance with COMAR 21.06.03.02(A)(2).

1.4 Contract Duration

The Contract resulting from this RFP shall be approximately fifteen months and shall commence upon the issuance of a Notice-To-Proceed and end March 31, 2014.

1.5 Procurement Officer

The sole point of contact in the State for purposes of this RFP prior to the award of any Contract is the Procurement Officer at the address listed below:

Maria Ulrich
Maryland Energy Administration
60 West Street Suite 300
Annapolis, Maryland 21401
Phone Number: 410-260-7752
Fax Number: 410-974-2250
E-mail: mulrich@energy.state.md.us

MEA shall give notice of any change in the assignment of the Procurement Officer for this Project.

1.6 Contract Manager

The Contract Manager is:

Andrew Gohn
Senior Clean Energy Program Manager, Wind
Maryland Energy Administration
60 West Street, Suite 300
Annapolis, Maryland 21401
Phone Number: 410-260-7190
Fax Number: 410-974-2250
Email: agohn@energy.state.md.us

The Administration shall give notice of any change in the assignment of the Procurement Officer for this Project.

1.7 Pre-Proposal Conference

A pre-proposal conference (Conference) will be held on **Thursday, August 16, 2012 beginning at 10:00 AM, at 60 West Street Annapolis, Maryland 21401**. All interested Offerors are encouraged to attend in order to facilitate better preparation of their proposals.

The Pre-Proposal Conference will be summarized following the Conference, and a summary of all questions and answers from the Conference will be distributed to all prospective Offerors known to have received a copy of this RFP.

In order to assure adequate seating and other accommodations at the Pre-Proposal Conference, please e-mail, mail or fax (to Maria Ulrich – see information in 1.5) the Pre-Proposal Conference Response Form to the attention of the Procurement Officer with such notice no later than 4:00 PM on Monday August 13, 2012. The Pre-Proposal Conference Response Form is included as Attachment F to this RFP. In addition, if there is a need for sign language interpretation and/or other special accommodations due to a disability, please call no later than Monday August 13, 2012. MEA will make a reasonable effort to provide such special accommodation.

1.8 eMarylandMarketplace (eMM)

eMM is an electronic commerce system administered by the Maryland Department of General Services. In addition to using the MEA web site (www.energy.maryland.gov) and other means for transmitting the RFP and associated materials, the solicitation and summary of the pre-proposal conference, Offeror questions and the Procurement Officer's responses, addenda, and other solicitation related information will be provided via e-Maryland Marketplace, free of charge.

In order to receive a contract award, a vendor must be registered on eMaryland Marketplace (eMM). Registration is free. Go here to register: <https://emaryland.buyspeed.com/bso/>. Click on "Registration" to begin the process and follow the prompts.

1.9 Questions

Written questions from prospective Offerors will be accepted by the Procurement Officer prior to the pre-proposal conference. If possible and appropriate, such questions will be answered at the pre-proposal conference. Answers to questions deemed to be substantive in nature may be deferred for discussion during the pre-proposal conference. Questions may be submitted by mail, facsimile, or preferably, by e-mail to the Procurement Officer. Questions, both oral and written, will also be accepted from prospective Offerors attending the Pre-Proposal Conference. If possible and appropriate, these questions will be answered at the Pre-Proposal Conference.

Questions will also be accepted subsequent to the Pre-Proposal Conference and should be submitted in a timely manner prior to the proposal due date to the Procurement Officer. Time permitting answers to all substantive questions that have not previously been answered, and are not clearly specific only to the requestor, will be distributed to all vendors who are known to have received a copy of the RFP.

1.10 Proposals Due (Closing) Date

An unbound original and three (3) bound copies of each proposal (technical and financial) must be received by the Procurement Officer, at the address listed in Section 1.5, no later than 2:00 PM (local time) on Thursday, September 6, 2012 in order to be considered. An electronic version (CD, DVD or flash drive) of the Technical Proposal in MS Word format must be enclosed with the original technical proposal. An electronic version (CD, DVD or flash drive) of the Financial Proposal in MS Word format must be enclosed with the original financial proposal. Ensure that the CDs are labeled with the RFP title, RFP number, and Offeror name and packaged with the original copy of the appropriate proposal (technical or financial).

Requests for extension of this date or time will not be granted. Offerors mailing proposals should allow sufficient mail delivery time to ensure timely receipt by the Procurement Officer. Except as provided in COMAR 21.05.03.02, proposals received by the Procurement Officer after the due date, September 6, 2012 at 2:00 PM (local time) will not be considered.

Proposals may not be submitted by e-mail or facsimile.

1.11 Duration of Offer

Proposals submitted in response to this RFP are irrevocable for 90 days following the closing date of proposals or of Best and Final Offers (BAFOs), if requested. This period may be extended at the Procurement Officer's request only with the Offeror's written agreement.

1.12 Revisions to the RFP

If it becomes necessary to revise this RFP before the due date for proposals, amendments will be provided to all prospective Offerors who were sent this RFP or otherwise are known by the Procurement Officer to have obtained this RFP. In addition, amendments to the RFP will be posted on the MEA Procurements web page and through eMarylandMarketplace. Amendments made after the due date for proposals will be sent only to those Offerors who submitted a timely proposal and which remain in award contention as of the date of issuance of the Amendment

Acknowledgment of the receipt of all amendments to this RFP issued before the proposal due date must accompany the Offeror's proposal in the Transmittal Letter accompanying the Technical Proposal submittal. Acknowledgement of the receipt of amendments to the RFP issued after the proposal due date shall be in the manner specified in the amendment notice. Failure to acknowledge receipt of amendments does not relieve the Offeror from complying with all terms of any such amendment.

1.13 Cancellations; Discussions

The State reserves the right to cancel this RFP, accept or reject any and all proposals, in whole or in part, received in response to this RFP, to waive or permit cure of minor irregularities, and to conduct discussions with all qualified or potentially qualified Offerors in any manner necessary to serve the best interests of the State. The State also reserves the right, in its sole discretion, to

award a Contract based upon the written proposals received without prior discussions or negotiations.

1.14 Oral Presentation

Offerors will be required to make oral presentations to State representatives. Significant representations made by an Offeror during the oral presentation shall be submitted in writing. All such representations will become part of the Offeror's proposal and are binding if the Contract is awarded. The Procurement Officer will notify Offerors of the time and place of oral presentations. Typically oral presentations occur two or more weeks after the proposal due date.

1.15 Incurred Expenses

The State will not be responsible for any costs incurred by an Offeror in preparing and submitting a proposal, in making an oral presentation, in providing a demonstration, or in performing any other activities relative to this solicitation.

1.16 Economy of Preparation

Proposals should be prepared simply and economically, providing a straightforward, concise description of the Offeror's proposals to meet the requirements of this RFP.

1.17 Protests/Disputes

Any protest or dispute related respectively to this solicitation or the resulting Contract shall be subject to the provisions of COMAR 21.10 (Administrative and Civil Remedies).

1.18 Multiple or Alternate Proposals

Neither multiple nor alternate proposals will be accepted.

1.19 Access to Public Information Act Notice

An Offeror shall give specific attention to the clear identification of those portions of its proposal that it considers confidential, proprietary commercial information or trade secrets, and provide justification why such materials, upon request, should not be disclosed by the State under the Public Information Act, Title 10, Subtitle 6, Part III of the State Government Article of the Annotated Code of Maryland.

Offerors are advised that, upon request for this information from a third party, the Procurement Officer is required to make an independent determination whether the information can be disclosed. A determination not to disclose must be approved by the Office of the Attorney General in accordance with COMAR 21.05.02.11c. Information which is claimed to be confidential is to be placed after the Title Page and before the Table of Contents in the Technical proposal and if applicable in the Financial proposal.

1.20 Offeror Responsibilities

The selected Offeror shall be responsible for all products and services required by this RFP. All subcontractors must be identified and a complete description of their role relative to the proposals must be included in the Offeror's proposals. Additional information regarding MBE subcontractors is provided under paragraph 1.25 below.

If an Offeror that seeks to perform or provide the services required by this RFP is subsidiary of another entity, all information submitted by the Offeror, such as but not limited to, references and financial reports, shall pertain exclusively to the Offeror, unless the parent organization will guarantee the performance of the subsidiary. If applicable, the Offeror's proposal must contain an explicit statement that the parent organization will guarantee the performance of the subsidiary.

If an Offeror that seeks to perform or provide the services required by this RFP is a consortium, all information submitted by the Offeror, such as but not limited to, references and financial reports, shall pertain exclusively to the Offeror, unless one or more of the consortium organizations will guarantee the performance of the consortium. If applicable, the Offeror's proposal must contain an explicit statement that the member organization will guarantee the performance of the consortium.

1.21 Mandatory Contractual Terms

By submitting an offer in response to this RFP, an Offeror, if selected for award, shall be deemed to have accepted the terms of this RFP and the Contract, attached as Attachment A. Any exceptions to this RFP or the Contract must be clearly identified in the Executive Summary of the technical proposal. A proposal that takes exception to these terms may be rejected.

1.22 Proposal Affidavit

A proposal submitted by an Offeror must be accompanied by a completed Bid/Proposal Affidavit. A copy of this Affidavit is included as Attachment B of this RFP.

1.23 Contract Affidavit

All Offerors are advised that if a Contract is awarded as a result of this solicitation, the successful Offeror will be required to complete a Contract Affidavit. A copy of this Affidavit is included for informational purposes as Attachment C of this RFP. This Affidavit must be provided within five business days of notification of proposed Contract award.

1.24 Security and Confidentiality

MEA shall require the successful Offeror and their subcontractors to sign non-disclosure agreements and comply with security policies or practices. (Attachment H, Exhibit A and Exhibit B).

1.25 Minority Business Enterprises

It is the goal of MEA to support strong MBE participation in the development of the clean energy sector in general and in the establishment of the Maryland offshore wind industry in particular. Offerors are advised to consider structures such as subcontracting arrangements and mentorship programs that support this goal.

A minimum overall MBE subcontractor participation goal of 10 % has been established for the services resulting from this contract. Attachment D – Minority Business Enterprise Participation, Instructions and Forms are provided to assist Offerors.

Each Offeror shall complete, sign and submit **Attachment D-1** (MDOT Certified MBE Utilization and Fair Solicitation Affidavit) at the time it submits its technical response to the RFP. Failure of an Offeror to complete and sign **Attachment D-1** (MDOT Certified MBE Utilization and Fair Solicitation Affidavit) at the time it submits its technical response to the RFP, will result in the State's rejection of the Offeror's Proposal to the RFP.

Offerors are responsible for verifying that each of the MBE(s) selected to meet the subcontracting goal and subsequently identified in **Attachment D-1** is appropriately certified and has the correct NAICS codes allowing it to perform the intended work. By executing the **Attachment D-1**, the Offeror acknowledges the certified MBE participation goal or requests a waiver, commits to make a good faith effort to achieve the goal, and affirms that MBE subcontractors were treated fairly in the solicitation process.

Within ten (10) working days from notification that it is the apparent awardee or from the date of the actual award, whichever is earlier, the apparent awardee must provide the following documentation to the Procurement Officer.

- (a) Outreach Efforts Compliance Statement (**Attachment D-2**)
- (b) Subcontractor Project Participation Certification (**Attachment D-3**)

The Contractor, once awarded a contract, will be responsible for submitting, or requiring its subcontractor(s) to submit the following forms to provide the State with ongoing monitoring of MBE Participation:

- (a) Prime Contractor Paid/Unpaid MBE Invoice Report (**Attachment D-4**).
- (b) Subcontractor Paid/Unpaid MBE Invoice Report (**Attachment D-5**).

A current directory of certified Minority Business Enterprises is available through the Maryland State Department of Transportation, Office of Minority Business Enterprise 7201 Corporate Center Drive Maryland 21076. The phone number is 410-865-1269.

The directory is also available at <http://www.e-mdot.com>. The most current and up-to-date information on Minority Business Enterprises is available via this website.

NOTICE TO BIDDERS/OFFERORS

Questions or concerns regarding the MBE requirements of this solicitation must be raised before the receipt of initial proposals.

1.26 Arrearages

By submitting a proposal in response to this RFP, the Offeror, if selected for award, agrees that it will comply with all Federal, State and Local laws applicable to its activities and obligations under the contract.

By submitting a response to this solicitation, each Offeror represents that it is not in arrears in the payment of any obligations due and owing the State, including the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of the Contract if selected for Contract award.

1.27 Procurement Method

This Contract will be awarded in accordance with the Competitive Sealed Proposals process under COMAR 21.05.03.

1.28 Verification of Registration and Tax Payment

Before a corporation can do business in the State it must be registered with the Department of Assessments and Taxation, State Office Building, Room 803, 301 West Preston Street, Baltimore, Maryland 21201. It is strongly recommended that any potential Offeror complete registration prior to the due date for receipt of proposals. An Offeror's failure to complete registration with the Department of Assessments and Taxation may disqualify an otherwise successful Offeror from final consideration and recommendation for Contract award.

1.29 False Statements

Offerors are advised that section 11-205.1 of the State Finance and Procurement Article of the Annotated Code of Maryland provides as follows:

- (a) In connection with a procurement contract a person may not willfully:
 - Falsify, conceal, or suppress a material fact by any scheme or device;
 - Make a false or fraudulent statement or representation of a material fact; or
 - Use a false writing or document that contains a false or fraudulent statement or entry of a material fact.
- (b) A person may not aid or conspire with another person to commit an act under subsection (a) of this section.
- (c) A person who violates any provision of this section is guilty of a felony and on conviction is subject to a fine not exceeding \$20,000 or imprisonment not exceeding five years or both.

1.30 Payments by Electronic Funds Transfer

By submitting a response to this solicitation, the Offeror agrees to accept payments by electronic funds transfer unless the State Comptroller's Office grants an exemption. The selected Offeror shall register using the COT/GAD X-10 Vendor Electronic Funds (EFT) Registration Request Form. Any request for exemption must be submitted to the State Comptroller's Office for approval at the address specified on the COT/GAD X-10 form and must include the business identification information as stated on the form and include the reason for the exemption. The COT/GAC X-10 form can be downloaded at:

http://compnet.comp.state.md.us/General_Accounting_Division/Vendors/Electronic_Funds_Transfer/default.shtml

1.31 Living Wage Requirements

A solicitation for services under a State contract valued at \$100,000 or more may be subject to Title 18, State Finance and Procurement Article, Annotated Code of Maryland. Additional information regarding the State's Living Wage requirement is contained in the following section entitled ***Living Wage Requirements for Service Contracts*** (Attachment J). If the Offeror fails to complete and submit the required Living Wage Affidavit agreement, (Attachment K) the State may determine an Offeror to be not responsible.

Contractors and Subcontractors subject to the Living Wage Law shall pay each covered employee at least the minimum amount set by law for the applicable Tier Area. The specific Living Wage rate is determined by whether a majority of services take place in a Tier 1 Area or a Tier 2 Area of the State. The Tier 1 Area includes Montgomery, Prince George's, Howard, Anne Arundel, and Baltimore Counties, and Baltimore City. The Tier 2 Area includes any county in the State not included in the Tier 1 Area. In the event that the employees who perform the services are not located in the State, the head of the unit responsible for a State Contract pursuant to §18-102 (d) shall assign the tier based upon where the recipients of the services are located.

The contract resulting from this solicitation has been deemed to be a Tier 1 Contract.

Information pertaining to reporting obligations may be found by going to the DLLR Website <http://www.dllr.state.md.us/> and clicking on Living Wage

1.32 Prompt Payment Requirement

This procurement and the contract to be awarded pursuant to this solicitation are subject to the Prompt Payment Policy Directive issued by the Governor's Office of Minority Affairs and dated August 1, 2008. Promulgated pursuant to Sections 11-201, 13-205(a), and Title 14, Subtitle 3 of the State Finance and Procurement Article (SFP), and Code of Maryland Regulations (COMAR) 21.01.01.03 and 21.11.03.01 et seq., the Directive seeks to ensure the prompt payment of all

subcontractors on non-construction procurement contracts. The successful Offeror who is awarded a contract must comply with the prompt payment requirements outlined in the Contract, §28 (see Attachment A). Additional information is available on the Governor's Office of Minority Affairs (GOMA) website at:
http://www.oma.state.md.us/documents/PROMPTPAYMENTFAQs_000.pdf

1.33 Veteran-Owned Small Business Enterprise (VSBE)

NOTICE TO BIDDERS/OFFERORS

Questions or concerns regarding the VSBE requirements of this solicitation must be raised before the opening of bids or receipt of initial proposals.

PURPOSE

Contractor shall structure its procedures for the performance of the work required in this contract to attempt to achieve the veteran-owned small business enterprise (VSBE) goal stated in the Invitation for Bids or Request for Proposals. VSBE performance must be in accordance with this Exhibit, as authorized by Code of Maryland Regulations (COMAR) 21.11.13. Contractor agrees to exercise all good faith efforts to carry out the requirements set forth in this Exhibit.

VSBE GOALS

A VSBE subcontract participation goal of 0.5% percent of the total contract dollar amount has been established for this procurement. By submitting a response to this solicitation, the bidder or offeror agrees that this percentage of the total dollar amount of the contract will be performed by verified veteran-owned small business enterprises.

SOLICITATION AND CONTRACT FORMATION

A bidder or offeror must include with its bid or offer a completed Veteran-Owned Small Business Enterprise Utilization Affidavit (Attachment E-1) whereby:

- (1) the bidder or offeror acknowledges it a) intends to meet the VSBE participation goal; or b) requests a full or partial waiver. If the bidder or offeror commits to the full VSBE goal or requests a partial waiver, they shall commit to making a good faith effort to achieve the stated goal.
- (2) the bidder or offeror responds to the expected degree of VSBE participation as stated in the solicitation, by identifying the specific commitment of VSBEs at the time of submission. The bidder or offeror shall specify the percentage of contract value associated with each VSBE subcontractor identified on the VSBE Participation Schedule.

If a bidder or offeror fails to submit Attachment E-1 with the bid or offer as required, the Procurement Officer may determine that the bid is non-responsive or that the proposal is not reasonably susceptible of being selected for award.

Within 10 working days from notification that it is the apparent awardee, the awardee must provide the following documentation to the Procurement Officer:

- (1) VSBE Participation Schedule (Attachment E-2)
- (2) If the apparent awardee believes a full or partial waiver of the overall VSBE goal is necessary, it must submit a fully documented waiver request that complies with COMAR 21.11.13.07.
- (3) Any other documentation required by the Procurement Officer to ascertain bidder or offeror responsibility in connection with the VSBE participation goal.

If the apparent awardee fails to return each completed document within the required time, the Procurement Officer may determine that the apparent awardee is not responsible and therefore not eligible for contract award.

SECTION 2 – SCOPE OF WORK

2.1 Purpose, Background and Survey Phases

2.1.1 The State is issuing this solicitation for the purposes outlined in Section 1.1 of this RFP.

2.1.2 Background - MEA Mission

The mission of the Maryland Energy Administration (MEA) is to maximize energy efficiency while promoting economic development, reducing reliance on foreign energy supplies, and improving the environment.

MEA advises the Governor on directions, policies and changes in the various segments of the energy market. As demand/supply competition, technological innovations, and policy changes by the federal government cause major changes in market sensitive energy sectors (e.g., petroleum markets, gas deregulation, and emerging competition in the electric utilities sector), State government must be in position to respond to new opportunities, as well as adjust to any potential dangers.

MEA prepares State government to respond to the changing dynamics of the energy industry. The strategic goals of the Maryland Energy Administration are:

- to make the State of Maryland a leader in energy efficiency;
- to reduce costs to our citizens;
- to leverage public/private partnerships in order to improve the competitive position of Maryland industry; and
- to lower the operating expenses of State and local governments while contributing to the improvement of air and water quality in Maryland.

Energy encompasses a broad range of public policy and governance issues. How efficiently we use energy touches everything we do--not only the environment and waste management, but also power supply, economic competitiveness, and energy security. Energy will continue to be a major part of the State's agenda.

2.1.3 Background – High-Resolution Geophysical Survey Requirement

MEA is implementing a strategy to focus Offshore Wind Development Fund efforts on activities which can reduce uncertainty and delay in development of offshore wind energy generation. Deployment of wind turbines on the Outer Continental Shelf (OCS) will require the compilation of considerable amounts of data for review by federal regulatory agencies. BOEM will evaluate Construction and Operation Plans for compliance with the National Environmental Policy Act, Magnuson-Stevens Fishery Conservation and Management Act, Migratory Bird Treaty Act, Marine Mammal Protection Act and all other applicable federal laws prior to approval of these plans.

While no developer has obtained a lease within the Maryland WEA at this time, the Offshore Wind Development Fund can continue to advance offshore wind energy by engaging in many of

the same data collection activities that a developer would conduct in the Construction and Operations Plan (COP) development process.

This RFP is therefore part of a larger effort that will continue through additional procurements, grants or other initiatives to conduct and assess the following:

1. Geotechnical Surveys
2. Benthic Environmental Surveys
3. Pelagic Environmental Surveys
4. Ornithological Environmental Surveys
5. Sea Mammal Environmental Surveys
6. Onshore Impact Environmental Surveys
7. Coastal Impact Surveys
9. Human impact Studies
10. Meteorological and Atmospheric Resource Assessment

An essential element of planning for future survey work is the development of a comprehensive geophysical dataset. Understanding the bathymetry and geophysical conditions of the sea floor is critical, both to understanding benthic habitat conditions and to planning more site-specific future geotechnical work. Ultimately, geotechnical surveys will need to be conducted in order to install a fixed meteorological tower that can serve as a stationary platform for additional environmental surveys and resource assessment.

MEA has identified offshore wind energy as the state's most abundant renewable resource and one that offers tremendous economic and job creation benefits. The ultimate objective of geophysical survey work is to support a large utility-scale wind farm that will supply Maryland electricity consumers with a sustainable source of clean renewable energy, provide significant economic development benefits, and secure price stability for the future.

2.1.4 Survey Phases. The MEA envisions the work being categorized and priced in three phases as described below:

- **Phase One: Mobilization.** Includes all Contractor/Sub-contractor work necessary to obtain personnel, equipment, materials, supplies, maintenance and other services to prepare for Phase Two, Performance begins from contract award through the initial Notice to Proceed (NTP) issued by the MEA, up to the day before Excursion Operations commence (embarking upon the sea survey and conduction data gathering)
- **Phase Two: Excursion Operations.** Includes all Contractor/Sub-contractor work necessary including personnel, equipment, materials, supplies, maintenance and other services that will sustain the operations of Phase Two. Performance begins the day after mobilization is complete and ends when all of the sea gathering data required in the RFP has been collected and the seagoing phase is completed by the Contractor.
- **Phase Three: Post Excursion Operations, Data Analysis and Report Delivery.** Includes all Contractor/Sub-contractor work required for data analysis and delivery of all required

reports and assessments as described in the RFP. Work includes personnel, equipment, materials, supplies, maintenance, and other services to sustain the operations of Phase Three. Performance begins the day after Excursion Operations are complete and ends with MEA acceptance of all required reports and assessments.

- Each Survey Phases may by necessity overlap during the performance of Contractor work. However, payments will be made by the MEA in accordance with the Contract terms.

2.2 Survey Techniques and Parameters

The Contractor shall conduct a high-resolution geophysical survey of the area of the Outer Continental Shelf (OCS) designated by the U.S. Department of Interior as the Maryland Wind Energy Area (MD WEA), as well as a 1,000' buffer intended to reflect an area of potential local impact, and potential transmission cable routes. (See "Study Area" definition and Attachment O.) The purpose of this activity is to compile a comprehensive dataset that will provide all the geophysical data necessary for an offshore wind energy project to begin developing a site map and determine areas in which to proceed with additional geotechnical work such as in-situ testing, boring and sampling at locations of meteorological towers, individual foundations and at every kilometer of transmission cable routes. All Contractor work product, data and documents will become the exclusive property of the MEA and at the MEA's sole discretion, the material and data may be shared with others.

All data must be collected in a manner and to a level of detail sufficient to provide the basis for a Construction and Operations Plan. Data collection must be conducted in accordance with the Guidelines for Providing Geological and Geophysical, Hazards, and Archaeological Information Pursuant to 30 CFR Part 285, as well as all appendices to these guidelines, found on the Bureau of Ocean Energy Management (BOEM) website at: <http://www.boem.gov/Renewable-Energy-Program/Regulatory-Information/Index.aspx>. The geographic scope of survey activities is the Maryland WEA, defined in the Maryland Call for Information and Nominations, published in the Federal Register on February 3, 2012 under Docket ID: BOEM-2011-0058, available on the BOEM website (See: http://www.boem.gov/uploadedFiles/BOEM/Renewable_Energy_Program/State_Activities/MD%20Call%20Map%20Without%20NOAA%20chart.pdf).

Specific geophysical survey work within the Study Area includes:

2.2.1 Bathymetry/Depth Sounding

- a. Use a multi-beam bathymetry system, particularly in areas characterized by complex topography or fragile habitats.

2.2.2 Sea Floor Imagery/Side Scan Sonar

- a. Recording of sea floor imagery shall be of the highest practicable resolution consistent with and no less than the requirements in this RFP, Section 2, resulting in displays automatically corrected for slant range, lay-back and vessel speed.
- b. Use a digital dual-frequency side-scan sonar system with preferred frequencies of 445 and 900 kHz and no less than 100 and 500 kHz to record continuous planimetric images of the seafloor.
- c. Recorded data shall be mosaicked to provide a true plan view that provides 100 percent coverage of the Study Area.
- d. The side scan sonar sensor shall be towed above the seafloor at a distance that is 10% to 20% of the range of the instrument.
- e. Instruments shall be calibrated to enhance echo returns from small nearby objects and features without sacrificing the quality of echo returns from more distant objects and features.

2.2.3 Shallow & Medium (Seismic) Penetration Sub-bottom Profilers

- a. A high-resolution “chirp” sub-bottom profiler shall be used to delineate near-surface geologic strata and features. The sub-bottom profiler system shall be capable of achieving a vertical bed separation resolution of at least 0.3 meters in the uppermost 15 meters below the mud-line.
- b. A boomer profiler system shall be capable of penetrating greater than 10 meters beyond any potential foundation depth and the vertical resolution should be less than 6 meters. The seismic source shall deliver a simple, stable, and repeatable signature that is near to minimum phase output with usable frequency content. When choosing a sub-bottom profiler the Contractor shall be aware that National Marine Fisheries Service (NMFS) currently considers sound levels above 160 dB re 1 μ Pa to constitute Level B harassment under the Marine Mammal Protection Act. Sounds above 180 dB re 1 μ Pa are considered Level A harassment. Thus, MEA requires that, where practicable, sound shall be kept below these levels. Note that marine mammal monitoring plans are required by NMFS above these sound thresholds. MEA prohibits the use of air guns or any instrumentation that exceeds NMFS specifications.

2.2.4 Magnetometry

- a. Magnetometer survey techniques shall be capable of detecting and aiding the identification of ferrous, ferric, or other objects having a distinct magnetic signature. The magnetometer sensor shall be towed as near as possible to the seafloor, but shall not exceed an altitude of greater than 6 meters above the seafloor (as typically when it is flown greater than 6 meters above the seafloor the magnetometer does not produce data that can be adequately assessed). The sensor shall be towed in a manner that minimizes interference from the vessel hull and the other survey instruments. The magnetometer sensitivity shall be 1 gamma or less and the background noise level should not exceed a total of 3 gammas peak to peak.

2.3 Survey Methodologies

2.3.1 General - The geophysical survey grid for the project area shall include bathymetric charting, hazards assessments, shallow geological surveys, and archaeological resources assessments. The grid pattern for each survey shall cover the entire Study Area.

2.3.2 Specific Methodologies

- a. Line spacing for all geophysical data collection for hazards and archaeological resource assessments for side scan sonar/sub-bottom profilers shall not exceed 150 meters throughout the project area.
- b. Line spacing for bathymetric charting using multi-beam technique or side scan sonar mosaic construction shall be suitable for the water depths encountered and provide both full coverage of the seabed plus suitable overlap and resolution of small discrete targets of 0.5m - 1.0m in diameter.
- c. All track lines shall run generally parallel to each other. Tie-lines running perpendicular to the track lines should not exceed a line spacing of 1,000 meters throughout the project area.
- d. The geophysical survey grid for proposed transmission cable route(s) shall include a minimum 300 meter-wide corridor centered on the transmission cable location(s). Line spacing shall follow that of the respective instrumentation above.

2.4 Deliverables

Contractor shall prepare and submit, as required, the following deliverables to MEA for the study:

2.4.1 Reporting Requirements

- a. Within 3 months of the contract award date, Contractor shall submit to MEA a detailed plan describing:
 - i. Anticipated timeline of activities under Contract, including vessel excursion plan, permitting status, and data analysis timeline.
- b. During vessel excursion period(s), Contractor shall provide MEA weekly updates summarizing status of data collection activity. Updates may be provided to Contract Manager by telephone or email.
- c. The Contractor shall provide monthly written Status/Progress Reports to the Contract Manager throughout the period of performance. Reports will be submitted to the Contract manager no later than the 15th calendar day of the following month.
- d. No later than November 1, 2013, Contractor shall submit a very detailed report of field operations, including:
 - i. A chronological log of all survey activities
 - ii. A personnel list of all individuals involved in survey planning, field work and report preparation as well as a description of functional responsibilities
 - iii. Any information later parties may need to understand any unusual data

2.4.2 Final Report of Technical Specifications of All Survey Operations

- a. Description of the navigation system with a statement of its estimated accuracy for the surveyed area.
- b. Description of survey instrumentation including scale and sensitivity settings, sampling rates, and tow heights off the seafloor for the magnetometer and side scan sonar sensors.
- c. Description or diagram of the survey vessel, including size, sensor configuration, navigation antenna location, cable lengths, and distances from sensors to navigation antenna.
- d. Vessel speed, course changes, sea state and weather conditions.
- e. Complete daily survey operations log covering the entire period of mobilization(s).
- f. A description of survey procedures, including a statement of survey and record quality, a comparison of data from survey line crossings, and a discussion of any problems that may have affected the ability of the contractor to identify and analyze hazards in the surveyed area.
- g. Due no later than November 1, 2013.

2.4.3 Maps

- a. Navigation post-plot map of the Study Area showing survey lines and directions, and navigational SPS at intervals of no more than 100m.
- b. Bathymetry map at contour intervals of 0.3m to 1m depending on seafloor morphology.
- c. Geologic features map from shallow/medium penetration profiler data
- d. Side scan sonar contacts map
- e. Magnetic anomalies map
- f. Shallow isopach map showing thickness of unconsolidated Holocene/late-Pleistocene sediments (in meters)
- g. Hazards anomaly map showing significant subsurface conditions of interest, including areas of shallow gas for hazards assessment, keyed to anomaly table in the survey report
- h. Shallow structure map showing contours (in meters) on top of a late-Pleistocene unconformity prominent within the study area
- i. Due no later than November 1, 2013.

2.4.4 Hazards Assessment – An assessment of potential hazards within the Study Area observable with technology used, including but not limited to analysis of:

- a. General geological background
- b. Seafloor features, including side scan sonar Analysis of any magnetic or other survey anomalies indicative of the presence of unexploded ordnance (UXO)
- c. Geological structure, slumping and sliding, slope gradients, buried channels, submarine canyons, river channels, exposed hard bottoms, and karst areas.
- d. Unstable seafloor areas
- e. Due no later than November 1, 2013.

2.4.5 Magnetic Anomalies Data Table

- a. A list of all magnetic anomalies in both a dbase (.dbf) table and an Excel table (.xlsx)
- b. Provide latitude/longitude to six decimal places
- c. Add additional fields to the table as needed
- d. Report total percentage of survey area flown above 6 meters
- e. Provide above information in a tabular format in the report
- f. Due no later than November 1, 2013.

2.4.6 Side Scan Sonar Contacts of Unknown Source

- a. A list of all side scan sonar contacts of unknown source in both a dbase (.dbf) table and an Excel table (.xlsx)
- b. Provide latitude and longitude to six decimal places
- c. Provide above information in a tabular format in the report
- d. Due no later than November 1, 2013.

2.4.7 2D Seismic Data – Contractor shall provide the complete processes data sets in industry standard formats directly the Contract Manager:

- a. Two-dimensional final processed seismic volumes recorded on LTO4, LTO3, LTO2, or Super DLT Tape 2, *and* DVD media in SEG-Y standard exchange format.
- b. A digital copy of SEG-Y byte positions for the two-dimensional data and a list of 2D lines including SP and CDP ranges for each line on CD.
- c. A final edited ASCII navigation file formatted in standard SEG-P1, UKOOA P1-90 format. Identify line name and locations for the first, last and every tenth shot point (SP) including latitude/longitude, and projected XY locations on CD or DVD. Identify the geocentric ellipsoid used as a reference for the data and the associated projection system used.
- d. A digital copy of the processing sequences that were applied to the data on CD.
- e. A digital images plot of the survey, projected with OCS blocks on CD.
- f. Due no later than November 1, 2013.

2.4.8 Archaeological resources and other sensitive habitats keyed to maps, with locations presented in latitude and longitude (decimal degrees) and UTM coordinates.

- a. Due no later than November 1, 2013.

2.4.9 Results and conclusions of the hazards evaluation

- a. A summary of conclusions and recommendations supported by the survey data and analyses, including a discussion of known or potential hazards and any potential archaeological resources or sensitive habitat areas to be avoided or that may require further investigations. The Contractor shall conduct geophysical survey work along a

- likely transmission cable route to an onshore substation. This cable path will be defined by MEA and coordinated with contractor prior to initiating survey work.
- b. Due no later than November 1, 2013.

2.5 Concurrent Activities and Additional Observer Opportunities

- 2.5.1 Contractor shall provide MEA and other State agencies opportunities for concurrent data gathering by utilizing MEA authorized observers. Vessel survey operations may create excellent opportunities for MEA, other State agencies and contractors to include observers on board to gather ecological baseline data or other data necessary for the ultimate development of a Construction and Operations Plan. In some cases, MEA or other State agencies may seek to concurrently gather data not directly related to offshore wind energy development.
- 2.5.2 The vessel shall have spare capacity to allow no less than 4 MEA authorized observers on any single sailing. Offeror shall provide reasonable accommodations (i.e. room and board) comparable to those being provided for Offeror's crew.
- 2.5.3 Nothing in this provision is intended to indicate any preference for proposals which include additional data gathering activities beyond those described in this Scope of Work, nor shall any preference be given to Offerors who may be currently involved in any other scientific, geophysical or other data gathering or analysis for MEA or any other State agency.
- 2.5.4 In Attachment G, Offerors shall provide a price per observer for each day that additional observers are on vessels. Offerors shall provide information describing vessel additional observer capacity in the Technical Proposal. (See RFP Section 3.4.7.3)

2.6 Acceptance and Ownership of Deliverables

- 2.6.1 All data developed under this procurement is the exclusive property of MEA. Contractor shall retain no rights to utilize, commercialize or transfer any data or work product of this Contract without express written consent of MEA. All file data shall be submitted to MEA in an unprotected digital format, including large format map layouts in Adobe PDF, GIS data in ArcGIS, and any additional appropriate data formats determined in pre-survey meetings.
- 2.6.2 Upon completion of deliverables in final form, Contractor shall submit deliverables to MEA, after which MEA shall have 30 days in which to review deliverables for completeness. MEA shall issue written determinations of acceptance of deliverables under this procurement. No deliverables shall be considered complete without such a determination, signed by the Contract Manager.
- 2.6.3 Deliverable Submission and Acceptance Process
- 2.6.3.1 For each written deliverable from the RFP Section 2.4.2 through 2.4.9, draft and

final, the Contractor shall submit to the MEA Contract Manager one hard copy and one electronic copy compatible with Microsoft Office 2010, and/or Visio 2000.

- 2.6.3.2 Drafts of all final deliverables are required at least two weeks in advance of all final deliverable due dates and the Contract Manager shall indicate acceptance or rejection of the draft within one week. Acceptance of the draft does not guarantee acceptance of the final as the final deliverable will be subjected to a more rigorous review. Written deliverables defined as draft documents must demonstrate due diligence in meeting the scope and requirements of the associated final written deliverable. A draft written deliverable may contain limited structural errors such as poor grammar, misspellings or incorrect punctuation, but must:
- Be presented in a format appropriate for the subject matter and depth of discussion;
 - Be organized in a manner that presents a logical flow of the deliverable's content;
 - Represent factual information reasonably expected to have been known at the time of submittal;
 - Present information that is relevant to the section of the deliverable being discussed;
 - Represent a significant level of completeness towards the associated final written deliverable that supports a concise final deliverable acceptance process.
- 2.6.3.3 In the event of rejection, the Contractor shall take the necessary corrective action(s) as described in the Attachment M "Required Changes" and "Other Comments" blocks and request waivers for any final deliverable, that by virtue of non-acceptance, will be delivered past the required time frames.
- 2.6.3.4 Upon completion of a deliverable, the Contractor shall document each deliverable in final form to the Contract Manager for acceptance. The Contractor shall memorialize such delivery in an Agency Receipt of Deliverable Form (Attachment M). The Contract Manager shall countersign the Agency Receipt of Deliverable Form indicating receipt of the contents described therein.
- 2.6.3.5 Upon receipt of a final deliverable, the Contract Manager shall commence acceptance testing or review of the deliverable as required to validate the completeness and quality in meeting requirements. Upon completion of validation, the Contract Manager shall issue to the Contractor notice of acceptance or rejection of the deliverables in an Agency Acceptance of Deliverable Form (Attachment N). In the event of rejection, the Contractor shall correct the identified deficiencies or non-conformities. Subsequent project tasks may not continue until deficiencies with a deliverable are rectified and accepted by the Contract Manager or the Contract Manager has specifically

issued in writing a waiver for conditional continuance of project tasks. Once the State's issues have been addressed and resolutions accepted by the Contract Manager, the Contractor will incorporate the resolutions into the deliverable and resubmit the deliverable for acceptance.

2.6.3.6 When presented for acceptance, a written deliverable defined as a final document must satisfy the scope and requirements of the RFP for that deliverable. Final written deliverables shall not contain structural errors such as poor grammar, misspellings or incorrect punctuation, and must:

- Be presented in a format appropriate for the subject matter and depth of discussion;
- Be organized in a manner that presents a logical flow of the deliverable's content;
- Represent factual information reasonably expected to have been known at the time of submittal;
- Present information that is relevant to the section of the deliverable being discussed.

2.7 Invoicing

2.7.1 All invoices shall be submitted to the Contract Manager no later than the no later than the 15th calendar day of the following month, signed by the Contract Manager and include the following information: Maryland Energy Administration, 60 West Street, Suite 300, Annapolis, Maryland 21401, Contractor name, remittance address, federal taxpayer identification or (if owned by an individual) his/her social security number, invoice period, invoice date, invoice number, and amount due. Invoices submitted without the required information will not be processed for payment until the Contractor provides the required information.

2.7.2 Because the contract type is fixed, and much of the work will be delivered at the end of contract, the amount due (payments) shall be calculated to be paid monthly in an amount equal to 70% of the total fixed price for the three phases of work (See Attachment G), divided by the number of months from the initial NTP to the end of the Contract on March 31, 2014. Upon the final acceptance by the MEA of all required work under the contract, the Contractor shall submit a final invoice for the remaining balance. For those months with "Observer Days", the Contractor shall submit an invoice for the fixed unit price times the number of Observer days used during the month as a separate line item on that invoice. **For Example:** If the contract value is \$100,000 and the amount of months of the contract is 18 months (i.e. NTP issued September 2012), the Contractor would be paid at a rate of \$3,888 per month of acceptable deliverables ($\$100,000 \times 70\% / 18$) for the preceding month's activities plus any "observer days" if applicable.

2.7.3 Contractor shall submit its final process for resolving billing errors to the Contract Manager within 10 work days after the NTP.

2.8 Insurance

- 2.8.1 The Contractor shall maintain property and casualty insurance with minimum limits sufficient to cover losses resulting from or arising out of Contractor action or inaction in the performance of the Contract by the Contractor, its agents, servants, employees or subcontractors.
- 2.8.2 The Contractor shall maintain a policy of general liability insurance that is of the proper type and limits specified below.
- 2.8.3 The Contractor shall provide a copy of the Contractor's current certificate of insurance that, at a minimum, shall contain the following:
- A) Worker's Compensation - The Contractor shall maintain the following insurance protections required by statute:
 - a. Worker's Compensation Acts
 - i. \$500,000
 - b. The Longshore and Harbor Workers' Compensation Act
 - i. \$500,000
 - c. The Federal Employers' Liability Act
 - i. \$500,000
 - B) General Liability - The Contractor shall purchase and maintain the following insurance protection for liability claims arising as a result of the Contractor's operations under this agreement.
 - a. \$2,000,000 - General Aggregate Limit (other than products/completed operations)
 - b. \$1,000,000 - Each occurrence limit
 - c. \$2,000,000 - Products/completed operations
 - C) Protection & Indemnity (liability for watercraft):
 - a. \$1,000,000 per occurrence (if it can be added/included in the excess liability policy), or
 - b. \$5,000,000 per occurrence (if it cannot be added/included in the excess liability policy)
 - D) Auto Liability:
 - a. \$1,000,000 Combined Single Limit
 - E) Excess Liability:
 - a. \$4,000,000 limit
 - F) Professional Liability (minimum):
 - a. \$5,000,000 limit each claim

G) US Longshore and Harbor Workers Act:

- a. Statutory

H) Outer Continental Shelf Lands Act:

- a. Statutory

- 2.8.4 Upon execution of this Contract, Contractor shall provide the Contract Manager with current certificates of insurance, and shall update such certificates from time to time, as directed by the State.
- 2.8.5 The State shall be named as an additional named insured on the policies of all property, casualty, liability, and other types of insurance evidencing this coverage (Worker's Compensation excepted). Certificates of insurance evidencing this coverage shall be provided prior to the commencement of any activities in the Contract. All insurance policies shall be endorsed to include a clause that requires that the insurance carrier provide the Procurement Officer, by certified mail, not less than 60 days advance notice of any non-renewal, cancellation, or expiration. In the event the State receives a notice of non-renewal, the Contractor shall provide the State with an insurance policy from another carrier at least 30 days prior to the expiration of the insurance policy then in effect. All insurance policies shall be with a company licensed by the State to do business and to provide such policies.
- 2.8.6 The Contractor shall require that any subcontractors obtain and maintain similar levels of insurance and shall provide the State with the same documentation as is required of the Contractor.

2.9 Non-Disclosure Affidavit

Within 10 business days after award, the Contractor, its Sub-contractors and their respective personnel must execute the Non-Disclosure Affidavit included as Attachment H to the RFP. This is necessary to protect certain confidential information in the event that MEA needs to communicate locations of potential areas of sensitive habitat, fisheries information, sensitive archaeological sites, or other sensitive information pertaining to the execution of this geophysical survey.

SECTION 3 – PROPOSAL FORMAT

3.1 Two Part Submission

Offerors shall submit proposals in separate volumes:

- Volume I - TECHNICAL PROPOSAL
- Volume II - FINANCIAL PROPOSAL

3.2 Proposals

Volume I-Technical Proposal shall be sealed separately from Volume II-Financial Proposal but submitted simultaneously to the Procurement Officer (address listed on Key Information Summary). An unbound original, so identified, and three (3) copies of each volume are to be submitted. An electronic version of both the Volume I- Technical Proposal in MS Word format and the Volume II- Financial Proposal in MS Word format shall also be submitted with the unbound originals technical or financial volumes, as appropriate. Electronic media is to be submitted on a CD and shall bear a label on the outside containing the RFP number and name, the name of the Offeror and the volume number.

3.3 Submission

Each Offeror is required to submit a separate file for each "Volume", which is to be labeled Volume I- High Resolution Geophysical Resource Survey for the Maryland Energy Administration, Technical Proposal and Volume II- High Resolution Geophysical Resource Survey for the Maryland Energy Administration, Financial Proposal. Each file shall bear the RFP title and number, name and address of the Offeror, the volume number (I or II), and closing date and time for receipt of the proposals.

All pages of both proposal volumes shall be consecutively numbered from beginning (Page 1) to end (Page "x").

3.4 Volume I – Technical Proposal

3.4.1 Transmittal Letter

A transmittal letter shall accompany the Technical Proposal. The purpose of this letter is to transmit the proposal and acknowledge the receipt of any addenda. The Transmittal Letter shall include a contact person's name, e-mail address, phone number and fax number of the individual that has the ability to respond to any inquiries or communications from the MEA that concerns the Offeror's proposal. The transmittal letter should be brief and signed by an individual who is authorized to commit the Offeror to the services and requirements as stated in this RFP. Also, see Offeror's responsibilities in Section 1.20.

3.4.2 Additional Required Technical Submissions

- A) Completed Bid/Proposal Affidavit (Attachment B – with original of Technical Proposal only)

- B) Completed Minority Business Participation Forms (Attachment D-1) with original of Technical Proposal only) **CAUTION: FAILURE TO SUBMIT OR PROPERLY COMPLETE THE D-1 WILL RESULT IN THE OFFEROR'S PROPOSAL BEING REJECTED.**
- C) Completed Conflict of Interest Affidavit (Attachment I with original of Technical Proposal)
- D) Completed Living Wage Affidavit (Attachment K—with original of Technical Proposal only).
- E) Completed Veteran-Owned Small Business Enterprise Utilization Affidavit (Attachment E-1)

3.4.3 Format of Technical Proposal

Inside a sealed package described in Section 3.3, above, an unbound original, to be so labeled, three (3) copies and the electronic version shall be provided. Section 2 of this RFP provides requirements and Section 3 provides reply instructions. The paragraphs in these RFP sections are numbered for ease of reference. In addition to the instructions below, the Offeror's Technical Proposals should be organized and numbered in the same order as this RFP. This proposal organization will allow State officials and the Evaluation Committee to "map" Offeror responses directly to RFP requirements by paragraph number.

The Technical Proposal shall include the following section in this order:

3.4.4 Title and Table of Contents

The Technical Proposal should begin with a title page bearing the name and address of the Offeror and the name and number of this RFP. A table of contents shall follow the title page for the Technical Proposal. Note: Information which is claimed to be confidential is to be placed after the Title page and before the Table of Contents in the Offeror's Technical Proposal, and if applicable, also in the Offeror's Financial Proposal. An explanation for each claim of confidentiality shall be included.

3.4.5 Executive Summary

The Offeror shall condense and highlight the contents of the technical proposal in a separate section titled "Executive Summary".

The summary shall also identify any exceptions the Offeror has taken to the requirements of this RFP, the Contract (Attachment A), or any other attachments. Exceptions to terms and conditions may result in having the proposal deemed unacceptable or classified as not reasonably susceptible of being selected for award. If no exceptions to terms and conditions are made, the summary shall indicate acceptance of all RFP terms and conditions.

3.4.6 Offeror Experience and Capabilities

Offerors shall include information on past experience with similar projects/services. Offerors shall describe how their organization can meet the qualifications of this RFP and shall include the following:

3.4.6.1 An overview of the Offeror's experience and capabilities providing services. This description shall include:

- An overview of the Offeror's experience. This description shall include a general summary of the services offered in terms of:
 - The extent of similar services to those required under this RFP
 - The number of years the Offeror has provided these services
 - The number of clients and geographic locations the Offeror currently serves
- References. Provide at least three specific references who are capable of documenting:
 - The Offeror's ability to manage services of the type described in this RFP
 - The quality and breadth of services provided by the Offeror
 - Each client reference must include the following information:
 - Name of client organization.
 - Name, title, and telephone number of point-of-contact for client organization.
 - Value, type, and duration of contract(s) supporting client organization.
 - The services provided, scope of the contract, geographic area being supported, performance objectives satisfied, and improvements made for the client (e.g. reduction in operation/maintenance costs while maintaining or improving current performance levels).

Note: In the event an Offeror is unable to produce three references, the Offeror shall explain the reasons why the three references with the supporting information under this bullet cannot be provided. Additionally, the Offeror shall produce other references that support its competency and qualifications to perform contract requirements

- Sustainability. Describe measures your business has taken to increase the environmental and energy sustainability of your business and/or physical building.

3.4.6.2 As part of its proposal, each Offeror is to provide a list of all contracts with any entity of the State of Maryland that it is currently performing or which have been completed within the last 5 years. For each identified contract the Offeror is to provide:

- The State contracting entity
- A brief description of the services/goods provided
- The dollar value of the contract
- The term of the contract
- The State employee contact person (name, title, telephone number and if possible

- e-mail address)
- Whether the contract was terminated before the end of the term specified in the original contract, including whether any available renewal option was not exercised.

Information obtained regarding the Offeror's level of performance on State contracts will be considered as part of the responsibility determination by the Procurement Officer.

Notes:

- (1) The Procurement Officer or a designee will contact the identified State agencies or the most appropriate ones, if many contracts are involved, to ascertain the Offeror's level of performance of State contracts. Information obtained regarding the Offeror's level of performance on State contracts will be considered as part of the experience and past performance evaluation criteria of the RFP.
- (2) MEA shall have the right to contact any reference as part of the evaluation and selection process. MEA also reserves the right to request site visits to the Offeror's offices for the purpose of evaluating proposals.
- (3) MEA reserves the right to request additional references.

3.4.7 Offeror Technical Response to RFP Requirements

3.4.7.1 The Offeror shall address each element of Section 2 in its Technical Proposal and describe how its proposed services will meet the requirements as described in the RFP. The Offeror shall identify the location(s) it proposes to provide the service, and any current facilities that it operates at that location to satisfy the State's requirements as outlined in this RFP. If the State is seeking Offeror agreement to a requirement, the Offeror shall state agreement or disagreement.

As stated above, any exception to a term or condition may result in having the proposal deemed unacceptable or classified as not reasonably susceptible of being selected for award. Any paragraph that responds to a work requirement shall include an explanation of how the work will be done.

3.4.7.2 The Offeror shall describe the type of vessel to be used to conduct survey activities, including:

- a. Description of the proposed navigation system with a statement of its estimated accuracy for the surveyed area;
- b. Description of proposed survey instrumentation including scale and sensitivity settings, sampling rates, and planned tow heights off the seafloor for the magnetometer and side scan sonar sensors;
- c. Description or diagram of the proposed survey vessel type, including size, sensor configuration, navigation antenna location, cable lengths, and distances from sensors to navigation antenna; and
- d. A description of proposed survey procedures.

- 3.4.7.3 Offeror shall characterize the vessel's capacity to accommodate at least 4 additional observers for the purposes described in Sec. 2.5. Such characterization will describe observer accommodations and establish the total number of observers that could be accommodated, with personal items and technical equipment not anticipated to exceed 150lbs.

Note: No pricing information is to be included in the Technical Proposal (Volume 1). Pricing will only be included in the Financial Proposal (Volume II).

3.4.8 Offeror's Understanding and Project Management Methodology

In its proposal the Offeror should describe its overall approach for managing a Contract and satisfying the requirements of this RFP. Topics to be addressed include:

- A. ***Understanding*** - The Offeror's understanding of the g services to be provided. This should demonstrate an understanding of the services expected under this Contract.
- B. ***Project Management Methodology*** - The Offeror's approach to managing the overall project identified in this RFP. The overall Project Management approach should include the following items:
 - Project Organization (including identification and role of subcontractors).
 - Offeror Support Resources that will be available, including Personnel and Technology Resources.
 - Project Management Planning and Tracking System.
 - Project Reporting Methodologies.
 - The personnel who will participate in periodic, scheduled meetings with MEA personnel and the manner in which the Offeror will provide updates/progress reports.
 - The availability of the Offeror to perform this Contract, including the flexibility to dedicate staff to these efforts.

3.4.9 Personnel Experience and Qualifications

Identify all key personnel and the Contractor's Project Manager. Provide a resume for all proposed personnel. Also, identify and include the names and titles of the key management personnel directly involved with supervising the services rendered under this Contract.

3.4.10 Economic Benefit to Maryland

Offeror shall submit, with the proposals, a narrative describing the benefits that will accrue to the Maryland economy as a direct or indirect result of the performance of this contract. Proposals will be evaluated to assess the benefit to Maryland's economy specifically offered.

Proposals that identify specific benefits as being contractually enforceable commitments will be rated more favorably than proposals that do not identify specific benefits as contractual commitments, all other factors being equal.

Offerors shall identify any performance guarantees that will be enforceable by the State if the full level of promised benefit is not achieved during the contract term.

As applicable, for the full duration of the contract including any renewal period or until the commitment is satisfied, the contractor shall provide to the procurement officer, or other designated agency personnel, reports of the actual attainment of each benefit listed in response to this section. These benefit attainment reports shall be provided quarterly unless elsewhere in these specifications a different reporting frequency is stated.

Please note that in responding to this section the following do not generally constitute economic benefits to be derived from this contract:

1. Generic statements that the State will benefit from the Offeror's superior performance under the contract;
2. Descriptions of the number of offeror employees located in Maryland other than those that will be performing work under this contract; or
3. Tax revenues from Maryland based employees or locations, other than those that will be performing, or used to perform, work under this contract.

Discussion of Maryland based employees or locations may be appropriate if the offeror makes some projection or guarantee of increased or retained presence based upon being awarded this contract.

Examples of economic benefits to be derived from a contract may include any of the following. For each factor identified below, identify the specific benefit and contractual commitments and provide a breakdown of expenditures in that category:

- The contract dollars to be recycled into Maryland's economy in support of the contract, through the use of Maryland subcontractors, suppliers and joint venture partners.
- The number and types of jobs for Maryland residents resulting from the contract. Indicate job classifications, number of employees in each classification, and the aggregate payroll to which the contractor has committed including contractual commitments at both prime and, if applicable, subcontract levels.
- Tax revenue to be generated for Maryland and its political subdivisions as a result of the contract. Indicate tax category (sales taxes, payroll taxes, inventory taxes, and estimated personal income taxes for new employees). Provide a forecast of the total tax revenues resulting from the contract.
- Subcontract dollars committed to Maryland small business and MBEs.
- Other benefits to the Maryland economy which the Offeror promises will result from awarding the contract to the Offeror, including contractual commitments. Describe the benefit, its value to the Maryland economy, and how it will result from or because of the

contract award. Offerors may commit to benefits that are not directly attributable to the contract but for which the contract award may serve as a catalyst or impetus.

3.4.11 Subcontractors

Offerors must identify subcontractors, including those used solely to meet MBE participation goals, and the role these subcontractors will have in the performance of the contract.

3.5 Volume II - Financial Proposal

Under separate sealed cover from the Technical Proposal and clearly identified in the format requirements identified in Section 3.3, the Contractor shall submit an original unbound copy, three copies, and an electronic version in MS Word of the Financial Proposal. The Financial Proposal shall contain all price information in the format specified in Attachment G. Complete the price sheets only as provided in the Price Proposal Instructions.

SECTION 4 – EVALUATION CRITERIA AND SELECTION PROCEDURE

4.1 Evaluation Criteria

Evaluation of the proposals will be based on the criteria set forth below. The Contract resulting from this RFP will be awarded to the Offeror that is most advantageous to the State, considering price and the technical factors set forth herein. In making this determination, technical will receive greater weight than price factors.

4.2 Technical Criteria

The criteria to be applied to each Technical Proposal are listed in descending order of importance. Offerors should understand that their response to the SOW requirements in the RFP Section 2 and the submission requirements in the RFP Section 3 shall illustrate a comprehensive understanding of the requirements and include identification of work methodology and an explanation of how the service will be provided. Any response deemed shallow or merely acknowledging a requirement will not earn as high a ranking as a response that shows depth and mastery of the subject matter.

1. Offeror Experience and Capabilities (Sec 3.4.6)
2. Offeror Technical Response to RFP Requirements (Sec 3.4.7)
3. Offeror Understanding and Project Management Methodology (Sec 3.4.8)
4. Personnel Experience and Qualifications (Sec 3.4.9)
5. Economic Benefit (Sec 3.4.10)

4.3 Financial Criteria

All qualified Offerors will be ranked from the lowest to the highest price based on their total composite labor rate price proposed (as submitted on Attachment G—Price Proposal Form).

4.4 Reciprocal Preference

Although Maryland law does not authorize procuring agencies to favor resident Offerors in awarding procurement contracts, many other states do grant their resident businesses preferences over Maryland contractors. Therefore, as described in COMAR 21.05.01.04, a resident business preference will be given if: a responsible Offeror whose headquarters, principal base of operations, or principal site that will primarily provide the services required under this RFP is in another state submits the most advantageous offer; the other state gives a preference to its residents through law, policy, or practice; and, the preference does not conflict with a Federal law or grant affecting the procurement Contract. The preference given shall be identical to the preference that the other state, through law, policy or practice gives to its residents.

4.5 Selection Procedures

4.5.1 General Selection Process

The Contract will be awarded in accordance with the competitive sealed proposals process under COMAR 21.05.03. The competitive sealed proposals method is based on discussions and revision of proposals during these discussions.

Accordingly, the State may hold discussions with all Offerors judged reasonably susceptible of being selected for award, or potentially so. However, the State also reserves the right to make an award without holding discussions. In either case of holding discussions or not doing so, the State may determine an Offeror to be not responsible and/or an Offeror's proposal to be not reasonably susceptible of being selected for award, at any time after the initial closing date for receipt of proposals and the review of those proposals. If the State finds an Offeror to be not responsible and/or an Offeror's Technical Proposal to be not reasonably susceptible of being selected for award, an Offeror's financial proposal will be returned unopened.

4.5.2 Selection Process Sequence

- 4.5.2.1 The first step in the process will be an evaluation for technical merit. During this review oral presentations and discussions may be held. The purpose of such discussions will be to assure a full understanding of the State's requirements and the Offeror's ability to perform, and to facilitate arrival at a Contract that will be most advantageous to the State. For scheduling purposes, Offerors should be prepared to make an oral presentation and participate in discussions within two weeks of the delivery of proposals to the State. The Procurement Officer will contact Offerors when the schedule is set by the State.
- 4.5.2.2 Offerors must confirm in writing any substantive oral clarification of, or change in, their proposals made in the course of discussions. Any such written clarification or change then becomes part of the Offeror's proposal.
- 4.5.2.3 The financial proposal of each qualified Offeror will be evaluated separately from the technical evaluation. After a review of the financial proposals of qualified Offerors, the Procurement Officer may again conduct discussions to further evaluate the Offeror's entire proposal.
- 4.5.2.4 When in the best interest of the State, the Procurement Officer may permit Offerors who have submitted acceptable proposals to revise their initial proposals and submit, in writing, best and final offers (BAFOs). However, the State reserves the right to make an award without issuing a BAFO if/when it's determined to be in the State's best interest.

4.5.3 Award Determination

Upon completion of all discussions and negotiations, reference checks, and site visits, if any, the Procurement Officer will recommend award of the Contract to the responsible Offeror whose proposal is determined to be the most advantageous to the State considering technical evaluation factors and price factors as set forth in this RFP.

In making the most advantageous Offeror determination, technical factors will be given greater weight than price factors.

ATTACHMENTS

ATTACHMENT A is the State's Contract. It is provided with the RFP for informational purposes and is not required at proposal submission time. However, it must be completed, signed and returned by the selected Offeror to the Procurement Officer expeditiously upon notification of proposed Contract award.

ATTACHMENT B – Bid/Proposal Affidavit. This form must be completed and submitted with the Offeror's technical proposal.

ATTACHMENT C – Contract Affidavit. It is not required at proposals submission time. It must be submitted by the selected Offeror to the Procurement Officer within 5 working days of notification of proposed award.

ATTACHMENT D – MINORITY BUSINESS ENTERPRISE PARTICIPATION INSTRUCTIONS AND FORMS D-1 THROUGH D-5. Form D-1 must be completed and submitted with the Offeror's technical proposal.

ATTACHMENT E – VETERAN-OWNED SMALL BUSINESS ENTERPRISE (VSBE)

ATTACHMENT F – Pre-Proposal Conference Response Form. It is requested that this form be completed and submitted as described in RFP section 1.7 by those potential Offerors who plan on attending the conference.

ATTACHMENT G –Price Proposal Instructions and Forms. Price Proposal forms must be completed and submitted as the Financial Proposal.

ATTACHMENT H – Non-Disclosure Agreement.

ATTACHMENT I – Conflict of Interest Affidavit.

ATTACHMENT J – Living Wage Information.

ATTACHMENT K – Living Wage Affidavit. This form must be completed and submitted with the Offeror's technical proposal.

ATTACHMENT L – Outer Continental Shelf (OCS) Map

ATTACHMENT M – Deliverable Submission Form

ATTACHMENT N– Deliverable Acceptance Form

ATTACHMENT O – Study Area

ATTACHMENT A – CONTRACT

High Resolution Geophysical Resource Survey for the Maryland Energy Administration

THIS CONTRACT (the “Contract”) is made this ____ day of _____, 2012 by and between _____ and the STATE OF MARYLAND, acting through the MARYLAND ENERGY ADMINISTRATION (MEA).

In consideration of the promises and the covenants herein contained, the parties agree as follows:

1. Definitions

In this Contract, the following words have the meanings indicated:

- 1.1 “Contract Manager” means Andrew Gohn, Senior Clean Energy Program Manager, Wind, Maryland Energy Administration, or other person designated in writing by the Administration.
- 1.2 “Contractor” means _____ whose principal business address is _____ and whose principal office in Maryland is _____.
- 1.3 “Department” means the Maryland Energy Administration.
- 1.4 “Financial Proposal” means the Contractor’s Financial Proposal dated _____.
- 1.5 “Procurement Officer” means Maria Ulrich, Maryland Energy Administration or other person designated in writing by the Administration.
- 1.6 ”RFP” means the Request for Proposals for High Resolution Geophysical Resource Survey for the Maryland Energy Administration, Project **DEXR240005**, and any amendments thereto issued in writing by the State.
- 1.7 “State” means the State of Maryland.
- 1.8 “Technical Proposal” means the Contractor’s Technical Proposal, dated _____.

2. Scope of Work

2.1 The Contractor shall provide all deliverables as defined in the RFP Section 2. These services shall be provided in accordance with the terms and conditions of this Contract and the following Exhibits, which are attached hereto and incorporated herein by reference. If there is any conflict between this Contract and the Exhibits, the terms of the Contract shall govern. If there is any conflict among the Exhibits, the following order of precedence shall determine the prevailing provision:

Exhibit A – The RFP

Exhibit B – The Technical Proposal

Exhibit C – The Financial Proposal

Exhibit D - State Contract Affidavit, executed by the Contractor and dated

2.2 The Procurement Officer may, at any time, by written order, make changes in the work within the general scope of the Contract or the RFP. No other order, statement or conduct of the Procurement Officer or any other person shall be treated as a change or entitle the Contractor to an equitable adjustment under this section. Except as otherwise provided in this Contract, if any change under this section causes an increase or decrease in the Contractor's cost of, or the time required for, the performance of any part of the work, whether or not changed by the order, an equitable adjustment in the Contract price shall be made and the Contract modified in writing accordingly. The Contractor must assert in writing its right to an adjustment under this section within thirty (30) days of receipt of written change order and shall include a written statement setting forth the nature and cost of such claim. No claim by the Contractor shall be allowed if asserted after final payment under this Contract. Failure to agree to an adjustment under this section shall be a dispute under the Disputes clause. Nothing in this section shall excuse the Contractor from proceeding with the Contract as changed.

2.3 Modifications to this Contract may be made provided (a) the modifications are made in writing; (b) all parties sign the modifications; and (c) approval by the required agencies, as described in COMAR, Title 21, is obtained.

3. Time for Performance.

The Contract resulting from this RFP shall commence upon the issuance of the Notice-To-Proceed and end March 31, 2014. The Contractor shall provide services upon receipt of a Notice to Proceed from the Procurement Officer.

4. Consideration and Payment

4.1 In consideration of the satisfactory performance of the work set forth in this Contract, MEA shall pay the Contractor in accordance with the terms of this Contract and at the rates specified on Exhibit C, Contractor's Financial Proposal.

4.2 Payments to the Contractor shall be made no later than thirty (30) days after MEA's receipt of a proper invoice for services provided by the Contractor, acceptance by MEA of services provided by the Contractor, and pursuant to the conditions outlined in Section 4 of this Contract. Each invoice for services rendered must include the Contractor's Federal Tax Identification Number which is_____. Charges for late payment of invoices other than as prescribed by Title 15, Subtitle 1, of the State Finance and Procurement Article, Annotated Code of Maryland, are prohibited. Invoices shall be submitted to the Contract Manager. Electronic funds transfer shall be used by the State to pay Contractor pursuant to this

Contract and any other State payments due Contractor unless the State Comptroller's Office grants Contractor an exemption.

4.3 In addition to any other available remedies, if, in the opinion of the Procurement Officer, the Contractor fails to perform in a satisfactory and timely manner, the Procurement Officer may refuse or limit approval of any invoice for payment, and may cause payments to the Contractor to be reduced or withheld until such time as the Contractor meets performance standards as established by the Procurement Officer.

4.4 Contractor's eMarylandMarketplace vendor ID number is

5. Rights to Records

5.1 The Contractor agrees that all documents and materials including but not limited to, software, reports, drawings, studies, specifications, estimates, tests, maps, photographs, designs, graphics, mechanical, artwork, computations and data prepared by the Contractor, for purposes of this Contract shall be the sole property of the State and shall be available to the State at any time. The State shall have the right to use the same without restriction and without compensation to the Contractor other than that specifically provided by this Contract.

5.2 The Contractor agrees that at all times during the term of this Contract and thereafter, works created as a deliverable under this Contract, and services performed under this Contract shall be "works made for hire" as that term is interpreted under U.S. copyright law. To the extent that any products created as a deliverable under this Contract are not works for hire for the State, the Contractor hereby relinquishes, transfers, and assigns to the State all of its rights, title, and interest (including all intellectual property rights) to all such products created under this Contract, and will cooperate reasonably with the State in effectuating and registering any necessary assignments.

5.3 The Contractor shall report to the Contract Manager, promptly and in written detail, each notice or claim of copyright infringement received by the Contractor with respect to all data delivered under this Contract.

5.4 The Contractor shall not affix any restrictive markings upon any data, documentation, or other materials provided to the State hereunder and if such markings are affixed, the State shall have the right at any time to modify, remove, obliterate, or ignore such warnings.

6. Exclusive Use

The State shall have the exclusive right to use, duplicate, and disclose any data, information, documents, records, or results, in whole or in part, in any manner for any purpose whatsoever, that may be created or generated by the Contractor in connection with this Contract. If any material, including software, is capable of being copyrighted, the State shall be the copyright owner and Contractor may copyright material connected with this project only with the express written approval of the State.

7. Patents, Copyrights, Intellectual Property

7.1 If the Contractor furnishes any design, device, material, process, or other item, which is covered by a patent, trademark or service mark, or copyright or which is proprietary to or a trade secret of another, the Contractor shall obtain the necessary permission or license to permit the State to use such item or items.

7.2 The Contractor will defend or settle, at its own expense, any claim or suit against the State alleging that any such item furnished by the Contractor infringes any patent, trademark, service mark, copyright, or trade secret. If a third party claims that a product infringes that party's patent, trademark, service mark, trade secret, or copyright, the Contractor will defend the State against that claim at Contractor's expense and will pay all damages, costs and attorney fees that a court finally awards, provided the State (i) promptly notifies the Contractor in writing of the claim; and (ii) allows Contractor to control and cooperates with Contractor in, the defense and any related settlement negotiations. The obligations of this paragraph are in addition to those stated in Section 7.3 below.

7.3 If any products furnished by the Contractor become, or in the Contractor's opinion are likely to become, the subject of a claim of infringement, the Contractor will, at its option and expense: a) procure for the State the right to continue using the applicable item, b) replace the product with a non-infringing product substantially complying with the item's specifications, or c) modify the item so that it becomes non-infringing and performs in a substantially similar manner to the original item.

8. Confidentiality

Subject to the Maryland Public Information Act and any other applicable laws, all confidential or proprietary information and documentation relating to either party (including without limitation, any information or data stored within the Contractor's computer systems) shall be held in absolute confidence by the other party. Each party shall, however, be permitted to disclose relevant confidential information to its officers, agents and employees to the extent that such disclosure is necessary for the performance of their duties under this Contract, provided that the data may be collected, used, disclosed, stored and disseminated only as provided by and consistent with the law. The provisions of this section shall not apply to information that (a) is lawfully in the public domain; (b) has been independently developed by the other party without violation of this Contract; (c) was already in the possession of such party, (d) was supplied to such party by a third party lawfully in possession thereof and legally permitted to further disclose the information or (e) which such party is required to disclose by law.

9. Loss of Data

In the event of loss of any State data or records where such loss is due to the intentional act or omission or negligence of the Contractor or any of its subcontractors or agents, the Contractor

shall be responsible for recreating such lost data in the manner and on the schedule set by the Contract Manager. The Contractor shall ensure that all data is backed up and recoverable by the Contractor. Contractor shall use its best efforts to assure that at no time shall any actions undertaken by the Contractor under this Contract (or any failures to act when Contractor has a duty to act) damage or create any vulnerabilities in data bases, systems, platforms and/or applications with which the Contractor is working hereunder.

10. Indemnification

10.1 The Contractor shall hold harmless and indemnify the State from and against any and all losses, damages, claims, suits, actions, liabilities and/or expenses, including, without limitation, attorneys' fees and disbursements of any character that arise from, are in connection with or are attributable to the performance or nonperformance of the Contractor or its subcontractors under this Contract.

10.2 The State has no obligation to provide legal counsel or defense to the Contractor or its subcontractors in the event that a suit, claim or action of any character is brought by any person not party to this Contract against the Contractor or its subcontractors as a result of or relating to the Contractor's obligations under this Contract.

10.3 The State has no obligation for the payment of any judgments or the settlement of any claims against the Contractor or its subcontractors as a result of or relating to the Contractor's obligations under this Contract.

10.4 The Contractor shall immediately notify the Procurement Officer of any claim or suit made or filed against the Contractor or its subcontractors regarding any matter resulting from, or relating to, the Contractor's obligations under the Contract, and will cooperate, assist and consult with the State in the defense or investigation of any claim, suit, or action made or filed against the State as a result of, or relating to, the Contractor's performance under this Contract.

11. Non-Hiring of Employees

No official or employee of the State, as defined under State Government Article, § 15-102, Annotated Code of Maryland, whose duties as such official or employee include matters relating to or affecting the subject matter of this Contract, shall, during the pendency and term of this Contract and while serving as an official or employee of the State, become or be an employee of the Contractor or any entity that is a subcontractor on this Contract.

12. Disputes

This Contract shall be subject to the provisions of Title 15, Subtitle 2, of the State Finance and Procurement Article of the Annotated Code of Maryland, and COMAR 21.10 (Administrative and Civil Remedies). Pending resolution of a claim, the Contractor shall proceed diligently with the performance of the Contract in accordance with the Procurement Officer's decision. Unless a lesser period is provided by applicable statute, regulation, or the Contract, the Contractor must file a written notice of claim with the Procurement Officer within 30 days after the basis for the

claim is known or should have been known, whichever is earlier. Contemporaneously with or within 30 days of the filing of a notice of claim, but no later than the date of final payment under the Contract, the Contractor must submit to the Procurement Officer its written claim containing the information specified in COMAR 21.10.04.02.

13. Maryland Law

13.1 This Contract shall be construed, interpreted, and enforced according to the laws of the State of Maryland.

13.2 The Maryland Uniform Computer Information Transactions Act, Maryland Code Annotated, Commercial Law Article, Title 22, does not apply to this Contract, or to any purchase order, or Notice to Proceed, issued under this Contract.

13.3 Any and all references to the Annotated Code of Maryland contained in this Contract shall be construed to refer to such Code sections as from time to time amended.

14. Nondiscrimination in Employment

The Contractor agrees: (a) not to discriminate in any manner against an employee or applicant for employment because of race, color, religion, creed, age, sex, marital status, national origin, ancestry, or disability of a qualified individual with a disability; (b) to include a provision similar to that contained in subsection (a), above, in any underlying subcontract except a subcontract for standard commercial supplies or raw materials; and (c) to post and to cause subcontractors to post in conspicuous places available to employees and applicants for employment, notices setting forth the substance of this clause.

15. Contingent Fee Prohibition

The Contractor warrants that it has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling agency working for the business, to solicit or secure the Contract, and that the business has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling agency, any fee or any other consideration contingent on the making of this Contract.

16. Non-availability of Funding

If the General Assembly fails to appropriate funds or if funds are not otherwise made available for continued performance for any fiscal period of this Contract succeeding the first fiscal period, this Contract shall be canceled automatically as of the beginning of the fiscal year for which funds were not appropriated or otherwise made available; provided, however, that this will not affect either the State's rights or the Contractor's rights under any termination clause in this Contract. The effect of termination of the Contract hereunder will be to discharge both the Contractor and the State from future performance of the Contract, but not from their rights and

obligations existing at the time of termination. The Contractor shall be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the Contract. The State shall notify the Contractor as soon as it has knowledge that funds may not be available for the continuation of this Contract for each succeeding fiscal period beyond the first.

17. Termination for Cause

If the Contractor fails to fulfill its obligations under this Contract properly and on time, or otherwise violates any provision of the Contract, the State may terminate the Contract by written notice to the Contractor. The notice shall specify the acts or omissions relied upon as cause for termination. All finished or unfinished work provided by the Contractor shall, at the State's option, become the State's property. The State shall pay the Contractor fair and equitable compensation for satisfactory performance prior to receipt of notice of termination, less the amount of damages caused by the Contractor's breach. If the damages are more than the compensation payable to the Contractor, the Contractor will remain liable after termination and the State can affirmatively collect damages. Termination hereunder, including the termination of the rights and obligations of the parties, shall be governed by the provisions of COMAR 21.07.01.11B.

18. Termination for Convenience

The performance of work under this Contract may be terminated by the State in accordance with this clause in whole, or from time to time in part, whenever the State shall determine that such termination is in the best interest of the State. The State will pay all reasonable costs associated with this Contract that the Contractor has incurred up to the date of termination, and all reasonable costs associated with termination of the Contract; provided, however, the Contractor shall not be reimbursed for any anticipatory profits that have not been earned up to the date of termination. All finished or unfinished work provided by the Contractor shall, at the State's option, become the State's property. Termination hereunder, including the determination of the rights and obligations of the parties, shall be governed by the provisions of COMAR 21.07.01.12 (A)(2).

19. Delays and Extensions of Time

The Contractor agrees to perform this Contract continuously and diligently. No charges or claims for damages shall be made by the Contractor for any delays or hindrances, regardless of cause, in the performance of services under this Contract. Time extensions will be granted only for excusable delays that arise from unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including but not restricted to acts of God, acts of the public enemy, acts of the State in either its sovereign or contractual capacity, acts of another contractor in the performance of a contract with the State, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or delays of subcontractors or suppliers arising from unforeseeable causes beyond the control and without the fault or negligence of either the Contractor or the subcontractors or suppliers.

20. Suspension of Work

The State unilaterally may order the Contractor in writing to suspend, delay, or interrupt all or any part of its performance for such period of time as the Procurement Officer may determine to be appropriate for the convenience of the State.

21. Pre-Existing Regulations

In accordance with the provisions of Section 11-206 of the State Finance and Procurement Article, Annotated Code of Maryland, the regulations set forth in Title 21 of the Code of Maryland Regulations (COMAR 21) in effect on the date of execution of this Contract are applicable to this Contract.

22. Financial Disclosure

The Contractor shall comply with the provisions of Section 13-221 of the State Finance and Procurement Article of the Annotated Code of Maryland, which requires that every person that enters into contracts, leases, or other agreements with the State or its agencies during a calendar year under which the business is to receive in the aggregate, \$100,000 or more, shall within 30 days of the time when the aggregate value of these contracts, leases or other agreements reaches \$100,000, file with the Secretary of the State certain specified information to include disclosure of beneficial ownership of the business.

23. Political Contribution Disclosure

The Contractor shall comply with Election Law Article, §§14-101 - 14-108, Annotated Code of Maryland, which requires that every person that enters into contracts, leases, or other agreements with the State, a county, or an incorporated municipality, or their agencies, during a calendar year in which the person receives in the aggregate \$100,000 or more, shall, file with the State Board of Elections a statement disclosing contributions in excess of \$500 made during the reporting period to a candidate for elective office in any primary or general election. The statement shall be filed with the State Board of Elections: (1) before a purchase or execution of a lease or contract by the State, a county, an incorporated municipality, or their agencies, and shall cover the preceding two calendar years; and (2) if the contribution is made after the execution of a lease or contract, then twice a year, throughout the contract term, on: (a) February 5, to cover the 6-month period ending January 31; and (b) August 5, to cover the 6-month period ending July 31.

24. Retention of Records

The Contractor shall retain and maintain all records and documents in any way relating to this Contract for three years after Contract closeout and final payment by the State under this

Contract or any applicable statute of limitations, whichever is longer, and shall make them available for inspection and audit by authorized representatives of the State, including the Procurement Officer or the Procurement Officer's designee, at all reasonable times. All records related in any way to the Contract are to be retained for the entire time provided under this section. In the event of any audit, Contractor shall provide assistance to the State, without additional compensation, to identify, investigate and reconcile any audit discrepancies and/or variances.

25. Compliance with Laws

The Contractor hereby represents and warrants that:

- A. It is qualified to do business in the State and that it will take such action as, from time to time hereafter, may be necessary to remain so qualified;
- B. It is not in arrears with respect to the payment of any monies due and owing the State, or any department or unit thereof, including but not limited to the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of this Contract;
- C. It shall comply with all federal, State and local laws, regulations, and ordinances applicable to its activities and obligations under this Contract; and,
- D. It shall obtain, at its expense, all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of its obligations under this Contract.

26. Cost and Price Certification

By submitting cost or price information, the Contractor certifies to the best of its knowledge that the information submitted is accurate, complete, and current as of the date of its bid or offer.

The price under this Contract and any change order or modification hereunder, including profit or fee, shall be adjusted to exclude any significant price increases occurring because the Contractor furnished cost or price information which, as of the date of its bid or offer, was inaccurate, incomplete, or not current.

27. Subcontracting; Assignment

The Contractor may not subcontract any portion of the services provided under this Contract without obtaining the prior written approval of the State, nor may the Contractor assign this Contract or any of its rights or obligations hereunder, without the prior written approval of the State. Any such subcontract or assignment shall include the terms of Sections 11 and 13 through 26 of this Contract and any other terms and conditions that the State deems necessary to protect its interests. The State shall not be responsible for the fulfillment of the Contractor's obligations to the subcontractors.

28. Prompt Payment Requirements and MBE Compliance

28.1. If a Contractor withholds payment of an undisputed amount to its subcontractor, MEA, at its option and in its sole discretion, may take one or more of the following actions:

- (a) Not process further payments to the Contractor until payment to the subcontractor is verified
- (b) Suspend all or some of the contract work without affecting the completion date(s) for the contract work;
- (c) Pay or cause payment of the undisputed amount to the subcontractor from monies otherwise due or that may become due;
- (d) Place a payment for an undisputed amount in an interest-bearing escrow account; or
- (e) Take other or further actions as appropriate to resolve the withheld payment.

28.2. An “undisputed amount” means an amount owed by a Contractor to a subcontractor for which there is no good faith dispute. Such “undisputed amounts” include, without limitation, (a) retainage which had been withheld and is, by the terms of the agreement between the Contractor and subcontractor, due to be distributed to the subcontractor and (b) an amount withheld because of issues arising out of an agreement or occurrence unrelated to the agreement under which the amount is withheld.

28.3. An act, failure to act, or decision of a procurement officer or a representative of MEA, concerning a withheld payment between a Contractor and subcontractor under this provision, may not:

- (a) Affect the rights of the contracting parties under any other provision of law;
- (b) Be used as evidence on the merits of a dispute between MEA and the Contractor in any other proceeding; or
- (c) Result in liability against or prejudice the rights of MEA.

28.4. The remedies enumerated above are in addition to those provided under COMAR 21.11.03.13 with respect to subcontractors that have contracted pursuant to the Minority Business Enterprise program.

28.5. To ensure compliance with certified MBE subcontract participation goals MEA may, consistent with COMAR 21.11.03.13, take the following measures:

- (a) Verify that the certified MBEs listed in the MBE participation schedule actually are performing work and receiving compensation as set forth in the MBE participation schedule.
- (b) This verification may include, as appropriate:
 - i. Inspecting any relevant records of the Contractor;
 - ii. Inspecting the jobsite; and
 - iii. Interviewing subcontractors and workers.
 - iv. Verification shall include a review of:

- a. The Contractor's monthly report listing unpaid invoices over 30 days old from certified MBE subcontractors and the reason for nonpayment; and
- b. The monthly report of each certified MBE subcontractor, which lists payments received from the Contractor in the preceding 30 days and invoices for which the subcontractor has not been paid.
- (c) If MEA determines that a Contractor is in noncompliance with certified MBE participation goals, then MEA will notify the Contractor in writing of its findings, and will require the Contractor to take appropriate corrective action. Corrective action may include, but is not limited to, requiring the Contractor to compensate the MBE for work performed as set forth in the MBE participation schedule.
- (d) If MEA determines that a Contractor is in material noncompliance with MBE contract provisions and refuses or fails to take the corrective action that MEA requires, then MEA may:
 - i. Terminate the contract;
 - ii. Refer the matter to the Office of the Attorney General for appropriate action; or
 - iii. Initiate any other specific remedy identified by the contract, including the contractual remedies required by this Directive regarding the payment of undisputed amounts.
- (e) Upon completion of the contract, but before final payment or release of retainage or both, the contractor shall submit a final report, in affidavit form under the penalty of perjury, of all payments made to, or withheld from MBE subcontractors.

29. Liability

29.1 For breach of this Contract, negligence, misrepresentation or any other contract or tort claim, Contractor shall be liable as follows:

- A. For infringement of patents, copyrights, trademarks, service marks and/or trade secrets, as provided in Section 7 of this Contract;
- B. Without limitation for damages for bodily injury (including death) and damage to real property and tangible personal property;
- C. For all other claims, damages, losses, costs, expenses, suits or actions in any way related to this Contract, regardless of the form, Contractor's liability shall be limited to three (3) times the total dollar amount of the Contract value up to the date of settlement or final award of any such claim. Third party claims arising under Section 10, "Indemnification", of this Contract are included in this limitation of liability only if the State is immune from liability. Contractor's liability for third party claims arising under Section 10 of this Contract shall be unlimited if the State is not immune from liability for claims arising under Section 10.

30. Parent Company Guarantee (If Applicable)

[Corporate name of Parent Company] hereby guarantees absolutely the full, prompt and complete performance by "[Contractor]" of all the terms, conditions and obligations contained in this Contract, as it may be amended from time to time, including any and all exhibits that are

now or may become incorporated hereunto, and other obligations of every nature and kind that now or may in the future arise out of or in connection with this Contract, including any and all financial commitments, obligations and liabilities. "[Corporate name of Parent Company]" may not transfer this absolute guaranty to any other person or entity without the prior express written approval of the State, which approval the State may grant, withhold, or qualify in its sole and absolute subjective discretion. "[Corporate name of Parent Company]" further agrees that if the State brings any claim, action, suit or proceeding against "[Contractor]", "[Corporate name of Parent Company]" may be named as a party, in its capacity as Absolute Guarantor.

31. Commercial Non-Discrimination

- 31.1 As a condition of entering into this Contract, Contractor represents and warrants that it will comply with the State's Commercial Nondiscrimination Policy, as described under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland. As part of such compliance, Contractor may not discriminate on the basis of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation, or on the basis of disability or other unlawful forms of discrimination in the solicitation, selection, hiring, or commercial treatment of subcontractors, vendors, suppliers, or commercial customers, nor shall Contractor retaliate against any person for reporting instances of such discrimination. Contractor shall provide equal opportunity for subcontractors, vendors, and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that this clause does not prohibit or limit lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the marketplace. Contractor understands that a material violation of this clause shall be considered a material breach of this Contract and may result in termination of this Contract, disqualification of Contractor from participating in State contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party.
- 31.2 The Contractor shall include the above Commercial Nondiscrimination clause, or similar clause approved by MEA, in all subcontracts.
- 31.3 As a condition of entering into this Contract, upon the Maryland Human Relations Commission's request, and only after the filing of a complaint against Contractor under Title 19 of the State Finance and Procurement Article, as amended from time to time, Contractor agrees to provide within 60 days after the request a complete list of the names of all subcontractors, vendors, and suppliers that Contractor has used in the past 4 years on any of its contracts that were undertaken within the state of Maryland, including the total dollar amount paid by Contractor on each subcontract or supply contract. Contractor further agrees to cooperate in any investigation conducted by the State pursuant to the State's Commercial Nondiscrimination Policy as set forth under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland, and to provide any documents relevant to any investigation that are requested by the State. Contractor understands that violation of this clause is a material breach of this Contract and may result in contract termination, disqualification by the State from participating in State contracts, and other sanctions.

32. Administrative

32.1 Procurement Officer. The work to be accomplished under this Contract shall be performed under the direction of the Procurement Officer. All matters relating to the interpretation of this Contract shall be referred to the Procurement Officer for determination.

32.2 Notices. All notices hereunder shall be in writing and either delivered personally or sent by certified or registered mail, postage prepaid as follows:

If to the State: Maryland Energy Administration
60 West Street, Suite 300
Annapolis, Maryland 21401

Attention: _____

If to the Contractor: _____

IN WITNESS THEREOF, the parties have executed this Contract as of the date hereinabove set forth.

CONTRACTOR

STATE OF MARYLAND
BY: MARYLAND ENERGY
ADMINISTRATION

By:

By: Malcolm D. Woolf, Director

Date

Date

Approved for form and legal
sufficiency this ____ day _____, 2012.

Assistant Attorney General

ATTACHMENT B – BID/PROPOSAL AFFIDAVIT

A. Each solicitation shall provide notice that the affidavit in §B of this regulation shall be completed and submitted to the procurement agency with the vendor's bid or offer.

B. Mandatory Solicitation Addendum. The solicitation addendum shall be in substantially the same form as follows:

BID/PROPOSAL AFFIDAVIT

A. Authority

I HEREBY AFFIRM THAT:

I, _____ (print name), _____ (title), of
_____ (print firm name) possess the legal authority to
make this Affidavit.

B. CERTIFICATION REGARDING COMMERCIAL NONDISCRIMINATION

The undersigned bidder hereby certifies and agrees that the following information is correct: In preparing its bid on this project, the bidder has considered all proposals submitted from qualified, potential subcontractors and suppliers, and has not engaged in "discrimination" as defined in §19-103 of the State Finance and Procurement Article of the Annotated Code of Maryland. "Discrimination" means any disadvantage, difference, distinction, or preference in the solicitation, selection, hiring, or commercial treatment of a vendor, subcontractor, or commercial customer on the basis of race, color, religion, ancestry, or national origin, sex, age, marital status, sexual orientation, or on the basis of disability or any otherwise unlawful use of characteristics regarding the vendor's, supplier's, or commercial customer's employees or owners. "Discrimination" also includes retaliating against any person or other entity for reporting any incident of "discrimination". Without limiting any other provision of the solicitation on this project, it is understood that, if the certification is false, such false certification constitutes grounds for the State to reject the bid submitted by the bidder on this project, and terminate any contract awarded based on the bid. As part of its bid or proposal, the bidder herewith submits a list of all instances within the past 4 years where there has been a final adjudicated determination in a legal or administrative proceeding in the State of Maryland that the bidder discriminated against subcontractors, vendors, suppliers, or commercial customers, and a description of the status or resolution of that determination, including any remedial action taken. Bidder agrees to comply in all respects with the State's Commercial Nondiscrimination Policy as described under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland.

B-1. Certification Regarding Minority Business Enterprises.

The undersigned bidder hereby certifies and agrees that it has fully complied with the State Minority Business Enterprise Law, State Finance and Procurement Article, §14-308(a)(2), Annotated Code of Maryland, which provides that, except as otherwise provided by law, a contractor may not identify a certified minority business enterprise in a bid or proposal and:

(1) Fail to request, receive, or otherwise obtain authorization from the certified minority business enterprise to identify the certified minority proposal;

- (2) Fail to notify the certified minority business enterprise before execution of the contract of its inclusion in the bid or proposal;
- (3) Fail to use the certified minority business enterprise in the performance of the contract; or
- (4) Pay the certified minority business enterprise solely for the use of its name in the bid or proposal.

Without limiting any other provision of the solicitation on this project, it is understood that if the certification is false, such false certification constitutes grounds for the State to reject the bid submitted by the bidder on this project, and terminate any contract awarded based on the bid.

B-2. Certification Regarding Veteran-Owned Small Business Enterprises.

The undersigned bidder hereby certifies and agrees that it has fully complied with the State veteran-owned small business Enterprise Law, State Finance and Procurement Article, § 14-605, Annotated Code of Maryland, which provides that, a person may not:

- (1) Knowingly and with intent to defraud, fraudulently obtain, attempt to obtain, or aid another person in fraudulently obtaining or attempting to obtain public money, procurement contracts, or funds expended under a procurement contract to which the person is not entitled under this title;
- (2) Knowingly and with intent to defraud, fraudulently represent participation of a veteran-owned small business enterprise in order to obtain or retain a bid preference or a procurement contract;
- (3) Willfully and knowingly make or subscribe to any statement, declaration, or other document that is fraudulent or false as to any material matter, whether or not that falsity or fraud is committed with the knowledge or consent of the person authorized or required to present the declaration, statement, or document;
- (4) Willfully and knowingly aid, assist in, procure, counsel, or advise the preparation or presentation of a declaration, statement, or other document that is fraudulent or false as to any material matter, regardless of whether that falsity or fraud is committed with the knowledge or consent of the person authorized or required to present the declaration, statement, or document;
- (5) Willfully and knowingly fail to file any declaration or notice with the unit that is required by COMAR 21.11.12; or
- (6) Establish, knowingly aid in the establishment of, or exercise control over a business found to have violated a provision of §B-2(1) — (5) of this regulation.

C. AFFIRMATION REGARDING BRIBERY CONVICTIONS

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business (as is defined in Section 16-101(b) of the State Finance and Procurement Article of the Annotated Code of Maryland), or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business's contracting activities including obtaining or performing contracts with public bodies has been convicted of, or has had probation before judgment imposed pursuant to Criminal Procedure Article, §6-220, Annotated Code of Maryland, or has pleaded nolo contendere to a charge of, bribery, attempted bribery, or conspiracy to bribe in violation of Maryland law, or of the law of any other state or federal law, except as follows (indicate the reasons why the affirmation cannot be given and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of person(s) involved, and their current positions and responsibilities with the business):

D. AFFIRMATION REGARDING OTHER CONVICTIONS

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business's contracting activities including obtaining or performing contracts with public bodies, has:

(1) Been convicted under state or federal statute of:

(a) A criminal offense incident to obtaining, attempting to obtain, or performing a public or private contract; or

(b) Fraud, embezzlement, theft, forgery, falsification or destruction of records or receiving stolen property;

(2) Been convicted of any criminal violation of a state or federal antitrust statute;

(3) Been convicted under the provisions of Title 18 of the United States Code for violation of the Racketeer Influenced and Corrupt Organization Act, 18 U.S.C. §1961 et seq., or the Mail Fraud Act, 18 U.S.C. §1341 et seq., for acts in connection with the submission of bids or proposals for a public or private contract;

(4) Been convicted of a violation of the State Minority Business Enterprise Law, §14-308 of the State Finance and Procurement Article of the Annotated Code of Maryland;

(5) Been convicted of a violation of §11-205.1 of the State Finance and Procurement Article of the Annotated Code of Maryland;

(6) Been convicted of conspiracy to commit any act or omission that would constitute grounds for conviction or liability under any law or statute described in subsections (1)—(5) above;

(7) Been found civilly liable under a state or federal antitrust statute for acts or omissions in connection with the submission of bids or proposals for a public or private contract;

(8) Been found in a final adjudicated decision to have violated the Commercial Nondiscrimination Policy under Title 19 of the State Finance and Procurement Article of the Annotated Code of Maryland with regard to a public or private contract; or

(9) Admitted in writing or under oath, during the course of an official investigation or other proceedings, acts or omissions that would constitute grounds for conviction or liability under any law or statute described in §§B and C and subsections D(1)—(8) above, except as follows (indicate reasons why the affirmations cannot be given, and list any conviction, plea, or imposition of probation before judgment with the date, court, official or administrative body, the sentence or disposition, the name(s) of the person(s) involved and their current positions and responsibilities with the business, and the status of any debarment):

E. AFFIRMATION REGARDING DEBARMENT

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, or any of its officers, directors, partners, controlling stockholders, or any of its employees directly involved in the business's contracting activities, including obtaining or performing contracts with public bodies, has ever been suspended or debarred (including being issued a limited denial of participation) by any public entity, except as follows (list each debarment or suspension providing the dates of the suspension or debarment, the name of the public entity and the status of the proceedings, the name(s) of the person(s) involved and their current positions and responsibilities with the business, the grounds of the debarment or suspension, and the details of each person's involvement in any activity that formed the grounds of the debarment or suspension).

F. AFFIRMATION REGARDING DEBARMENT OF RELATED ENTITIES

I FURTHER AFFIRM THAT:

(1) The business was not established and it does not operate in a manner designed to evade the application of or defeat the purpose of debarment pursuant to Sections 16-101, et seq., of the State Finance and Procurement Article of the Annotated Code of Maryland; and

(2) The business is not a successor, assignee, subsidiary, or affiliate of a suspended or debarred business, except as follows (you must indicate the reasons why the affirmations cannot be given without qualification):

G. SUB-CONTRACT AFFIRMATION

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business, has knowingly entered into a contract with a public body under which a person debarred or suspended under Title 16 of the State Finance and Procurement Article of the Annotated Code of Maryland will provide, directly or indirectly, supplies, services, architectural services, construction related services, leases of real property, or construction.

H. AFFIRMATION REGARDING COLLUSION

I FURTHER AFFIRM THAT:

Neither I, nor to the best of my knowledge, information, and belief, the above business has:

(1) Agreed, conspired, connived, or colluded to produce a deceptive show of competition in the compilation of the accompanying bid or offer that is being submitted;

(2) In any manner, directly or indirectly, entered into any agreement of any kind to fix the bid price or price proposal of the bidder or offeror or of any competitor, or otherwise taken any action in restraint of free competitive bidding in connection with the contract for which the accompanying bid or offer is submitted.

I. CERTIFICATION OF TAX PAYMENT

I FURTHER AFFIRM THAT: Except as validly contested, the business has paid, or has arranged for payment of, all taxes due the State of Maryland and has filed all required returns and reports with the Comptroller of the Treasury, the State Department of Assessments and Taxation, and the Department of Labor, Licensing, and Regulation, as applicable, and will have paid all withholding taxes due the State of Maryland prior to final settlement.

J. CONTINGENT FEES

I FURTHER AFFIRM THAT:

The business has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling agency working for the business, to solicit or secure the Contract, and that the business has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee, bona fide agent, bona fide salesperson, or commercial selling agency, any fee or any other consideration contingent on the making of the Contract.

K. ACKNOWLEDGEMENT

I ACKNOWLEDGE THAT this Affidavit is to be furnished to the Procurement Officer and may be distributed to units of: (1) the State of Maryland; (2) counties or other subdivisions of the State of Maryland; (3) other states; and (4) the federal government. I further acknowledge that this Affidavit is subject to applicable laws of the United States and the State of Maryland, both criminal and civil, and that nothing in this Affidavit or any contract resulting from the submission of this bid or proposal shall be construed to supersede, amend, modify or waive, on behalf of the State of Maryland, or any unit of the State of Maryland having jurisdiction, the exercise of any statutory right or remedy conferred by the Constitution and the laws of Maryland with respect to any misrepresentation made or any violation of the obligations, terms and covenants undertaken by the above business with respect to (1) this Affidavit, (2) the contract, and (3) other Affidavits comprising part of the contract.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

Date: _____

By: _____

(print name of Authorized Representative and Affiant)

(signature of Authorized Representative and Affiant)

ATTACHMENT C - CONTRACT AFFIDAVIT

A. AUTHORITY

I HEREBY AFFIRM THAT:

I, _____ (print name), _____ (title),
of _____ (print firm name) possess the legal authority
to make this Affidavit.

**B. CERTIFICATION OF REGISTRATION OR QUALIFICATION WITH THE STATE
DEPARTMENT OF ASSESSMENTS AND TAXATION**

I FURTHER AFFIRM THAT:

The business named above is a (check applicable items):

- (1) Corporation — ___ domestic or ___ foreign;
- (2) Limited Liability Company — ___ domestic or ___ foreign;
- (3) Partnership — ___ domestic or ___ foreign;
- (4) Statutory Trust — ___ domestic or ___ foreign;
- (5) ___ Sole Proprietorship

and is registered or qualified as required under Maryland Law.

I further affirm that the above business is in good standing both in Maryland and (IF APPLICABLE) in the jurisdiction where it is presently organized, and has filed all of its annual reports, together with filing fees, with the Maryland State Department of Assessments and Taxation. The name and address of its resident agent (IF APPLICABLE) filed with the State Department of Assessments and Taxation is:

Name and Department ID Number: _____ Address: _____

and that if it does business under a trade name, it has filed a certificate with the State Department of Assessments and Taxation that correctly identifies that true name and address of the principal or owner as:

Name and Department ID Number: _____

Address: _____.

C. FINANCIAL DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, the provisions of State Finance and Procurement Article, §13-221, Annotated Code of Maryland, which require that every business that enters into contracts, leases, or other agreements with the State of Maryland or its agencies during a calendar year under which the business is to receive in the aggregate \$100,000 or more shall, within 30 days of the time when the aggregate value of the contracts, leases, or other agreements reaches \$100,000, file with the Secretary of State of Maryland certain specified information to include disclosure of beneficial ownership of the business.

D. POLITICAL CONTRIBUTION DISCLOSURE AFFIRMATION

I FURTHER AFFIRM THAT:

I am aware of, and the above business will comply with, Election Law Article, §§14-101—14-108, Annotated Code of Maryland, which requires that every person that enters into contracts, leases, or other agreements with the State of Maryland, including its agencies or a political subdivision of the State, during a calendar year in which the person receives in the aggregate \$100,000 or more shall file with the State Board of Elections a statement disclosing contributions in excess of \$500 made during the reporting period to a candidate for elective office in any primary or general election.

E. DRUG AND ALCOHOL FREE WORKPLACE

(Applicable to all contracts unless the contract is for a law enforcement agency and the agency head or the agency head's designee has determined that application of COMAR 21.11.08 and this certification would be inappropriate in connection with the law enforcement agency's undercover operations.)

I CERTIFY THAT:

- (1) Terms defined in COMAR 21.11.08 shall have the same meanings when used in this certification.
- (2) By submission of its bid or offer, the business, if other than an individual, certifies and agrees that, with respect to its employees to be employed under a contract resulting from this solicitation, the business shall:
 - (a) Maintain a workplace free of drug and alcohol abuse during the term of the contract;
 - (b) Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of drugs, and the abuse of drugs or alcohol is prohibited in the business' workplace and specifying the actions that will be taken against employees for violation of these prohibitions;
 - (c) Prohibit its employees from working under the influence of drugs or alcohol;
 - (d) Not hire or assign to work on the contract anyone who the business knows, or in the exercise of due diligence should know, currently abuses drugs or alcohol and is not actively engaged in a bona fide drug or alcohol abuse assistance or rehabilitation program;
 - (e) Promptly inform the appropriate law enforcement agency of every drug-related crime that occurs in its workplace if the business has observed the violation or otherwise has reliable information that a violation has occurred;

- (f) Establish drug and alcohol abuse awareness programs to inform its employees about:
 - (i) The dangers of drug and alcohol abuse in the workplace;
 - (ii) The business's policy of maintaining a drug and alcohol free workplace;
 - (iii) Any available drug and alcohol counseling, rehabilitation, and employee assistance programs; and
 - (iv) The penalties that may be imposed upon employees who abuse drugs and alcohol in the workplace;
- (g) Provide all employees engaged in the performance of the contract with a copy of the statement required by §E(2)(b), above;
- (h) Notify its employees in the statement required by §E(2)(b), above, that as a condition of continued employment on the contract, the employee shall:
 - (i) Abide by the terms of the statement; and
 - (ii) Notify the employer of any criminal drug or alcohol abuse conviction for an offense occurring in the workplace not later than 5 days after a conviction;
- (i) Notify the procurement officer within 10 days after receiving notice under §E(2)(h)(ii), above, or otherwise receiving actual notice of a conviction;
- (j) Within 30 days after receiving notice under §E(2)(h)(ii), above, or otherwise receiving actual notice of a conviction, impose either of the following sanctions or remedial measures on any employee who is convicted of a drug or alcohol abuse offense occurring in the workplace:
 - (i) Take appropriate personnel action against an employee, up to and including termination; or
 - (ii) Require an employee to satisfactorily participate in a bona fide drug or alcohol abuse assistance or rehabilitation program; and
- (k) Make a good faith effort to maintain a drug and alcohol free workplace through implementation of §E(2)(a)—(j), above.
- (3) If the business is an individual, the individual shall certify and agree as set forth in §E(4), below, that the individual shall not engage in the unlawful manufacture, distribution, dispensing, possession, or use of drugs or the abuse of drugs or alcohol in the performance of the contract.
- (4) I acknowledge and agree that:
 - (a) The award of the contract is conditional upon compliance with COMAR 21.11.08 and this certification;
 - (b) The violation of the provisions of COMAR 21.11.08 or this certification shall be cause to suspend payments under, or terminate the contract for default under COMAR 21.07.01.11 or 21.07.03.15, as applicable; and

(c) The violation of the provisions of COMAR 21.11.08 or this certification in connection with the contract may, in the exercise of the discretion of the Board of Public Works, result in suspension and debarment of the business under COMAR 21.08.03.

F. CERTAIN AFFIRMATIONS VALID

I FURTHER AFFIRM THAT:

To the best of my knowledge, information, and belief, each of the affirmations, certifications, or acknowledgements contained in that certain Bid/Proposal Affidavit dated _____, 20____, and executed by me for the purpose of obtaining the contract to which this Exhibit is attached remains true and correct in all respects as if made as of the date of this Contract Affidavit and as if fully set forth herein.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

Date: _____

By: _____
(printed name of Authorized Representative and affiant)

(signature of Authorized Representative and affiant)

ATTACHMENT D – MINORITY BUSINESS ENTERPRISE

MARYLAND ENERGY ADMINISTRATION

PURPOSE

Contractor shall structure its procedures for the performance of the work required in this contract to attempt to achieve the minority business enterprise (MBE) goal stated in the Invitation for Bids or Request for Proposals. MBE performance must be in accordance with this Exhibit, as authorized by Code of Maryland Regulations (COMAR) 21.11.03. Contractor agrees to exercise all good faith efforts to carry out the requirements set forth in this Exhibit.

MBE GOALS AND SUB GOALS



An MBE subcontract participation goal of 10% percent of the total contract dollar amount has been established for this procurement. By submitting a response to this solicitation, the bidder or Offeror agrees that this percentage of the total dollar amount of the contract will be performed by certified minority business enterprises.

SOLICITATION AND CONTRACT FORMATION

A bidder or offeror must include with its bid or offer a completed *Certified MBE Utilization and Fair Solicitation Affidavit (Attachment D-1)* whereby:

- (1) the bidder or offeror acknowledges the certified MBE participation goal or requests a waiver, commits to make a good faith effort to achieve the goal, and affirms that MBE subcontractors were treated fairly in the solicitation process.
- (2) the bidder or offeror responds to the expected degree of Minority Business Enterprise participation as stated in the solicitation, by identifying the specific commitment of certified MBEs at the time of submission. The bidder or offeror shall specify the percentage of contract value associated with each MBE subcontractor identified on the MBE Participation Schedule.

If a bidder or offeror fails to submit (Attachment D-1) with the bid or offer as required, the Procurement Officer shall deem the bid non-responsive or shall determine that the offer is not reasonably susceptible of being selected for award.

Within 10 working days from notification that it is the apparent awardee or from the date of the actual award, whichever is earlier, the apparent awardee must provide the following documentation to the Procurement Officer.

- (1) **Outreach Efforts Compliance Statement** (Attachment D-2)
- (2) **Subcontractor Project Participation Certification** (Attachment D-3)

- (3) If the apparent awardee believes a waiver (in whole or in part) of the overall MBE goal or of any sub goal is necessary, it must submit a fully documented waiver request that complies with COMAR 21.11.03.11.
- (4) Any other documentation required by the Procurement Officer to ascertain bidder or offeror responsibility in connection with the certified MBE participation goal.

If the apparent awardee fails to return each completed document within the required time, the Procurement Officer may determine that the apparent awardee is not responsible and therefore not eligible for contract award. If the contract has already been awarded, the award is voidable.

CONTRACT ADMINISTRATION REQUIREMENTS

Contractor shall:

1. Submit monthly to MEA a report listing any unpaid invoices, over 30 days old, received from any certified MBE subcontractor, the amount of each invoice and the reason payment has not been made.
2. Include in its agreements with its certified MBE subcontractors a requirement that those subcontractors submit monthly to MEA a report that identifies the prime contract and lists all payments received from Contractor in the preceding 30 days, as well as any outstanding invoices, and the amount of those invoices.
3. Maintain such records as are necessary to confirm compliance with its MBE participation obligations. These records must indicate the identity of certified minority and non-minority subcontractors employed on the contract, the type of work performed by each, and the actual dollar value of work performed. Subcontract agreements documenting the work performed by all MBE participants must be retained by the Contractor and furnished to the Procurement Officer on request.
4. Consent to provide such documentation as reasonably requested and to provide right-of-entry at reasonable times for purposes of the State's representatives verifying compliance with the MBE participation obligations. Contractor must retain all records concerning MBE participation and make them available for State inspection for three years after final completion of the contract.
5. At the option of the procurement agency, upon completion of the contract and before final payment and/or release of retainage, submit a final report in affidavit form and under penalty of perjury, of all payments made to, or withheld from MBE subcontractors.

ATTACHMENTS

D-1 MDOT Certified MBE Utilization and Fair Solicitation Affidavit (must be submitted with bid or offer)

D-2 Outreach Efforts Compliance Statement (must be submitted within 10 working days of notification of apparent award or actual award, whichever is earlier)

D-3 Subcontractor Project Participation Certification (must be submitted within 10 working days of notification of apparent award or actual award, whichever is earlier)

D-4 Prime Contractor Paid/Unpaid MBE Invoice Report (must be submitted on a monthly (by the 15th) basis after award of contract or as otherwise indicated)

D-5 Subcontractor Paid/Unpaid MBE Invoice Report (must be submitted on a monthly (by the 15th) basis after award of contract or as otherwise indicated)

ATTACHMENT D-1

MDOT Certified MBE Utilization and Fair Solicitation Affidavit

(submit with bid or offer)

This document **MUST BE** included with the bid or offer. If the Bidder or Offeror fails to complete and submit this form with the bid or offer as required, the procurement officer shall deem the bid non-responsive or shall determine that the offer is not reasonably susceptible of being selected for award.

In conjunction with the bid or offer submitted in response to Solicitation No. _____, I affirm the following:

1. ☐ I acknowledge and intend to meet the overall certified Minority Business Enterprise (MBE) participation goal of ____ percent and, if specified in the solicitation, sub goals of ____ percent for MBEs classified as African American-owned and ____ percent for MBEs classified as women-owned. Therefore, I will not be seeking a waiver pursuant to COMAR 21.11.03.11.

OR

- ☐ I conclude that I am unable to achieve the MBE participation goal and/or subgoals. I hereby request a waiver, in whole or in part, of the overall goal and/or subgoals. Within 10 business days of receiving notice that our firm is the apparent awardee, I will submit all required waiver documentation in accordance with COMAR 21.11.03.11.

2. *I understand that if I am notified that I am the apparent awardee, I must submit the following additional documentation within 10 working days of receiving notice of the potential award or from the date of conditional award (per COMAR 21.11.03.10), whichever is earlier.*

- (a) Outreach Efforts Compliance Statement (Attachment D-2)
- (b) Subcontractor Project Participation Statement (Attachment D-3)
- (c) Any other documentation, including waiver documentation, if applicable, required by the Procurement Officer to ascertain bidder or Offeror responsibility in connection with the certified MBE participation goal.

I understand that if I fail to return each completed document within the required time, the Procurement Officer may determine that I am not responsible and therefore not eligible for contract award. If the contract has already been awarded, the award is voidable.

3. In the solicitation of subcontract quotations or offers, MBE subcontractors were provided not less than the same information and amount of time to respond as were non-MBE subcontractors.
4. Set forth below are the (i) certified MBEs I intend to use and (ii) the percentage of the total contract amount allocated to each MBE for this project. I hereby affirm that the MBE firms are only providing those products and services for which they are MDOT certified.

Prime Contractor: (Firm Name, Address, Phone)	Project Description:
Project Number: DEXR240005	

List Information For Each Certified MBE Subcontractor On This Project

Minority Firm Name	MBE Certification Number
Certification Category For Dually Certified MBE Subcontractors (<i>Check Only One Certification Category</i>)	
<input type="checkbox"/> African American Owned	<input type="checkbox"/> Woman-Owned
Percentage of Total Contract	
Minority Firm Name	MBE Certification Number
Certification Category For Dually Certified MBE Subcontractors (<i>Check Only One Certification Category</i>)	
<input type="checkbox"/> African American Owned	<input type="checkbox"/> Woman-Owned
Percentage of Total Contract	
Minority Firm Name	MBE Certification Number
Certification Category for Dually Certified MBE Subcontractors (<i>Check Only One</i>	

<i>Certification Category)</i> <input type="checkbox"/> African American Owned <input type="checkbox"/> Woman-Owned	
Percentage of Total Contract	
Minority Firm Name	MBE Certification Number
<i>Certification Category for Dually Certified MBE Subcontractors (Check Only One Certification Category)</i> <input type="checkbox"/> African American Owned <input type="checkbox"/> Woman-Owned	
Percentage of Total Contract	
Minority Firm Name	MBE Certification Number
<i>Certification Category for Dually Certified MBE Subcontractors (Check Only One Certification Category)</i> <input type="checkbox"/> African American Owned <input type="checkbox"/> Woman-Owned	
Percentage of Total Contract	

Continue on a separate page, if needed.

SUMMARY

Total <i>African-American</i> MBE Participation:	_____	%
Total <i>Woman-Owned</i> MBE Participation:	_____	%
Total <i>Other</i> Participation	_____	%
Total All MBE Participation:	_____	%

I solemnly affirm under the penalties of perjury that the contents of this Affidavit are true to the best of my knowledge, information, and belief.

 Bidder/Offeror Name

(PLEASE PRINT OR TYPE)

 Signature of Affiant

Name: _____

Title: _____

Date: _____

ATTACHMENT D-2

Outreach Efforts Compliance Statement

(Complete and submit this form within 10 working days of notification of apparent award or actual award, whichever is earlier)

In conjunction with the bid or offer submitted in response to Solicitation No. _____, Bidder/Offeror states the following:

1. Bidder/Offeror identified opportunities to subcontract in these specific work categories.
2. Attached to this form are copies of written solicitations (with bidding instructions) used to solicit MDOT certified MBEs for these subcontract opportunities.
3. Bidder/Offeror made the following attempts to contact personally the solicited MDOT certified MBEs.
4. Select ONE of the following:
 - a. ☐ This project does not involve bonding requirements.
 - OR**
 - b. ☐ Bidder/Offeror assisted MDOT certified MBEs to fulfill or seek waiver of bonding requirements (*describe efforts*).
5. Select ONE of the following:
 - a. ☐ Bidder/Offeror did/did not attend the pre-bid/proposal conference.
 - OR**
 - b. ☐ No pre-bid/proposal conference was held.

Bidder/Offeror Printed Name

Signature

Address: _____

ATTACHMENT D-3

Subcontractor Project Participation Certification

(Please complete and submit one form for each MDOT certified MBE listed on Attachment D-1 within 10 working days of notification of apparent award)

_____ (prime contractor) has entered into a contract with
_____ (subcontractor) to provide services in connection with the
Solicitation described below.

Prime Contractor Address and Phone	Project Description
Project Number: DEXR240005	Total Contract Amount \$
Minority Firm Name	MBE Certification Number
Work To Be Performed	
Percentage of Total Contract	

The undersigned Prime Contractor and Subcontractor hereby certify and agree that they have fully complied with the State Minority Business Enterprise law, State Finance and Procurement Article §14-308(a)(2), Annotated Code of Maryland which provides that, except as otherwise provided by law, a contractor may not identify a certified minority business enterprise in a bid or proposal and:

- (1) fail to request, receive, or otherwise obtain authorization from the certified minority business enterprise to identify the certified minority business enterprise in its bid or proposal;
- (2) fail to notify the certified minority business enterprise before execution of the contract of its inclusion of the bid or proposal;
- (3) fail to use the certified minority business enterprise in the performance of the contract; or

- (4) pay the certified minority business enterprise solely for the use of its name in the bid or proposal.

PRIME CONTRACTOR SIGNATURE

SUBCONTRACTOR SIGNATURE

By: _____

Name, Title
Date

By: _____
Name, Title

This form is to be completed
monthly by the prime
contractor.

ATTACHMENT D-4
Maryland Energy Administration
Minority Business Enterprise Participation
Prime Contractor Paid/Unpaid MBE Invoice Report

Report #: _____ Reporting Period (Month/Year): _____ Report is due to the MBE Officer by the 15th of the month following the month the services were provided. Note: Please number reports in sequence	Contract #: _____ Contracting Unit: _____ Contract Amount: _____ MBE Subcontract Amt: _____ Project Begin Date: _____ Project End Date: _____ Services Provided: _____
--	--

Prime Contractor:		Contact Person:																																					
Address:																																							
City:		State:	ZIP:																																				
Phone:	FAX:		Email:																																				
Subcontractor Name:		Contact Person:																																					
Phone:	FAX:																																						
Subcontractor Services Provided:																																							
List all payments made to MBE subcontractor named above during this reporting period: <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 5%;"></th> <th style="width: 40%; text-align: center;"><u>Invoice#</u></th> <th style="width: 55%; text-align: center;"><u>Amount</u></th> </tr> </thead> <tbody> <tr><td>1.</td><td></td><td></td></tr> <tr><td>2.</td><td></td><td></td></tr> <tr><td>3.</td><td></td><td></td></tr> <tr><td>4.</td><td></td><td></td></tr> <tr> <td colspan="3" style="padding-top: 10px;">Total Dollars Paid: \$ _____</td> </tr> </tbody> </table>			<u>Invoice#</u>	<u>Amount</u>	1.			2.			3.			4.			Total Dollars Paid: \$ _____			List dates and amounts of any outstanding invoices: <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 5%;"></th> <th style="width: 40%; text-align: center;"><u>Invoice #</u></th> <th style="width: 55%; text-align: center;"><u>Amount</u></th> </tr> </thead> <tbody> <tr><td>1.</td><td></td><td></td></tr> <tr><td>2.</td><td></td><td></td></tr> <tr><td>3.</td><td></td><td></td></tr> <tr><td>4.</td><td></td><td></td></tr> <tr> <td colspan="3" style="padding-top: 10px;">Total Dollars Unpaid: \$ _____</td> </tr> </tbody> </table>			<u>Invoice #</u>	<u>Amount</u>	1.			2.			3.			4.			Total Dollars Unpaid: \$ _____		
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	<u>Invoice #</u>	<u>Amount</u>																																					
1.																																							
2.																																							
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4.																																							
Total Dollars Unpaid: \$ _____																																							

**If more than one MBE subcontractor is used for this contract, you must use separate D-5 forms.

****Return one copy (hard or electronic) of this form to the following address (electronic copy with signature and date is preferred):**

MBE Liaison Officer
 Maryland Energy Administration
 60 West Street Suite 300
 Annapolis, Maryland 21401
mulrich@energy.state.md.us

Signature: _____ (Required) Date: _____

ATTACHMENT D-5

Minority Business Enterprise Participation Subcontractor Paid/Unpaid MBE Invoice Report

Report#: _____ Reporting Period (Month/Year): _____ Report is due by the 15th of the month following the month the services were performed.	Contract# _____ Contract Unit: _____ Contract Amount: _____ MBE Subcontract Amount: _____ Project Begin Date: _____ Project End Date: _____ Services Provided: _____
---	--

MBE Subcontractor Name:																						
MDOT Certification #:																						
Contact Person:	Email:																					
Address:																						
City: Baltimore	State:	ZIP:																				
Phone:	FAX:																					
Subcontractor Services Provided:																						
List all payments received from Prime Contractor during reporting period indicated above. <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 60%; text-align: center;"><u>Invoice Amt</u></th> <th style="width: 40%; text-align: center;"><u>Date</u></th> </tr> </thead> <tbody> <tr><td>1.</td><td></td></tr> <tr><td>2.</td><td></td></tr> <tr><td>3.</td><td></td></tr> <tr> <td colspan="2" style="padding-top: 10px;"> Total Dollars Paid: \$ _____ </td> </tr> </tbody> </table>	<u>Invoice Amt</u>	<u>Date</u>	1.		2.		3.		Total Dollars Paid: \$ _____		List dates and amounts of any unpaid invoices over 30 days old. <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 60%; text-align: center;"><u>Invoice Amt</u></th> <th style="width: 40%; text-align: center;"><u>Date</u></th> </tr> </thead> <tbody> <tr><td>1.</td><td></td></tr> <tr><td>2.</td><td></td></tr> <tr><td>3.</td><td></td></tr> <tr> <td colspan="2" style="padding-top: 10px;"> Total Dollars Unpaid: \$ _____ </td> </tr> </tbody> </table>		<u>Invoice Amt</u>	<u>Date</u>	1.		2.		3.		Total Dollars Unpaid: \$ _____	
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<u>Invoice Amt</u>	<u>Date</u>																					
1.																						
2.																						
3.																						
Total Dollars Unpaid: \$ _____																						
Prime Contractor: _____ Contact Person: _____																						

****Return one copy (hard or electronic) of this form to the following address (electronic copy with signature and date is preferred):**

MBE Liaison Officer Maryland Energy Administration 60 West Street, Suite 300 Annapolis, Maryland 21401 mulrich@energy.state.md.us

Signature: _____ Date: _____
(Required)

ATTACHMENT E – VETERAN-OWNED SMALL BUSINESS ENTERPRISE (VSBE)

CONTRACT ADMINISTRATION REQUIREMENTS

Contractor shall:

1. Submit monthly to the Department a report listing any unpaid invoices, over 45 days old, received from any VSBE subcontractor, the amount of each invoice and the reason payment has not been made.
2. Include in its agreements with its VSBE subcontractors a requirement that those subcontractors submit monthly to the Department a report that identifies the prime contract and lists all payments received from Contractor in the preceding 30 days, as well as any outstanding invoices, and the amount of those invoices.
3. Maintain such records as are necessary to confirm compliance with its VSBE participation obligations. These records must indicate the identity of VSBE and non-VSBE subcontractors employed on the contract, the type of work performed by each, and the actual dollar value of work performed. Subcontract agreements documenting the work performed by all VSBE participants must be retained by the Contractor and furnished to the Procurement Officer on request.
4. Consent to provide such documentation as reasonably requested and to provide right-of-entry at reasonable times for purposes of the State's representatives verifying compliance with the VSBE participation obligations. Contractor must retain all records concerning VSBE participation and make them available for State inspection for three years after final completion of the contract.
5. At the option of the procurement agency, upon completion of the contract and before final payment and/or release of retainage, submit a final report in affidavit form and under penalty of perjury, of all payments made to, or withheld from VSBE subcontractors.

ATTACHMENT E-1
Veteran-Owned Small Business Enterprise (VSBE) Utilization Affidavit
(submit with bid or offer)

This document **MUST BE** included with the bid or offer. If the Bidder or Offeror fails to complete and submit this form with the bid or offer, the procurement officer may determine that the bid is non-responsive or that the proposal is not reasonably susceptible of being selected for award.

In conjunction with the bid or proposal submitted in response to Solicitation No. _____, I affirm the following:

1. ☐ I acknowledge and intend to meet the overall verified VSBE participation goal of _____. Therefore, I will not be seeking a waiver.

OR

☐ I conclude that I am unable to achieve the VSBE participation goal. I hereby request a waiver, in whole or in part, of the overall goal. Within 10 business days of receiving notice that our firm is the apparent awardee, I will submit all required waiver documentation in accordance with COMAR 21.11.13.07.

2. I understand that if I am notified that I am the apparent awardee, I must submit the following additional documentation within 10 working days of receiving notice of the apparent award or from the date of conditional award (per COMAR 21.11.13.06), whichever is earlier.

- (a) Subcontractor Project Participation Statement (Attachment E-2)
- (b) Any other documentation, including waiver documentation, if applicable, required by the Procurement Officer to ascertain bidder or offeror responsibility in connection with the VSBE participation goal.

I understand that if I fail to return each completed document within the required time, the Procurement Officer may determine that I am not responsible and therefore not eligible for contract award. If the contract has already been awarded, the award is voidable.

3. In the solicitation of subcontract quotations or offers, VSBE subcontractors were provided not less than the same information and amount of time to respond as were non-VSBE subcontractors.
4. Set forth below are the (i) verified VSBEs I intend to use and (ii) the percentage of the total contract amount allocated to each VSBE for this project. I hereby affirm that the VSBE firms are only providing those products and services for which they are verified.

Prime Contractor: (Firm Name, Address, Phone)	Project Description:
Project Number:	

List Information for Each Verified VSBE Subcontractor on This Project

Name of Veteran-Owned Firm ----- Percentage of Total Contract	DUNS Number
Name of Veteran-Owned Firm ----- Percentage of Total Contract	DUNS Number
Name of Veteran-Owned Firm ----- Percentage of Total Contract	DUNS Number
Name of Veteran-Owned Firm ----- Percentage of Total Contract	DUNS Number
Name of Veteran-Owned Firm ----- Percentage of Total Contract	DUNS Number

Continue on a separate page, if needed.

SUMMARY

Total VSBE Participation:

_____ %

I solemnly affirm under the penalties of perjury that the contents of this Affidavit are true to the best of my knowledge, information, and belief.

Bidder/Offeror Name Signature of Affiant
(PLEASE PRINT OR TYPE)

Name: _____
Title: _____
Date: _____

ATTACHMENT E-2

VSBE Participation Schedule

Please complete and submit one form for each verified VSBE listed on Attachment within 10 working days of notification of apparent award.

_____ (prime contractor) has entered into a contract with
_____ (subcontractor) to provide services in connection with the Solicitation described below.

Prime Contractor Address and Phone	Project Description
Project Number	Total Contract Amount \$
Name of Veteran-Owned Firm	DUNS Number
Work To Be Performed	
Percentage of Total Contract	

The undersigned Prime Contractor and Subcontractor hereby certify and agree that they have fully complied with the State Veteran-Owned Small Business Enterprise law, State Finance and Procurement Article, Title 14, Subtitle 6, Annotated Code of Maryland.

PRIME CONTRACTOR SIGNATURE

By: _____
Name, Title
Date

SUBCONTRACTOR SIGNATURE

By: _____
Name, Title
Date

ATTACHMENT F – PRE-PROPOSAL CONFERENCE RESPONSE FORM

Project No. **DEXR240005**

High Resolution Geophysical Resource Survey

A Pre-Proposal Conference will be held at 10:00 AM, on August 16, 2012 at Maryland Energy Administration, 60 West Street, Suite 300, Annapolis, Maryland 21401. Please return this form by August 13th, 2012 advising whether or not you plan to attend.

Return via e-mail or fax this form to the Procurement Officer:

Return via e-mail or fax this form to the Procurement Officer:

Maria Ulrich
Procurement Officer
60 West Street, Suite 300
Email: mulrich@energy.state.md.us
Office Phone: 410-260-7752
Fax # (410) 974-2250

Please indicate:

_____ Yes, the following representatives will be in attendance:

1.

2.

_____ No, we will not be in attendance.

Signature

Title

ATTACHMENT G– PRICE PROPOSAL FORM AND INSTRUCTIONS

Instructions

In order to assist Offerors in the preparation of their financial proposal and to comply with the requirements of this solicitation, Financial Proposal Instructions and a Financial Proposal Form have been prepared. Offerors shall submit their financial proposal on the form in accordance with the instructions on the form and as specified herein. Do not alter the forms or the financial proposal may be rejected. The Financial Proposal Form is to be signed and dated, where requested, by an individual who is authorized to bind the Offeror to all proposed prices entered on the Financial Proposal Form.

The Financial Proposal Form is used to calculate the Offeror's TOTAL EVALUATED PRICE PROPOSED. Follow these instructions carefully when completing your Financial Proposal Form:

- A) All Unit and Extended Prices must be clearly entered in dollars and cents, e.g., \$24.15. Make your decimal points clear and distinct.
- B) All Unit Prices must be the actual unit price the State shall pay for the specific item or service identified in this RFP and may not be contingent on any other factor or condition in any manner.
- C) All calculations shall be rounded to the nearest cent, i.e. .344 shall be 34 and .345 shall be 35.
- D) All goods or services required through this RFP and proposed by the vendor at **No Cost to the State** must be clearly entered in the Unit Price, if appropriate, and Extended Price with **\$0.00**.
- E) Every blank in the Financial Proposal Form shall be filled in. Any blanks may result in the bid being rejected. Any changes or corrections made to the Financial Proposal Form by the Offeror prior to submission shall be initialed and dated.
- F) Except as instructed on the form, nothing shall be entered on the Financial Proposal Form that alters or proposes conditions or contingencies on the prices.
- G) It is imperative that the prices included on the Financial Proposal Form have been entered correctly and calculated accurately by the Offeror and that the respective total prices agree with the entries on the Financial Proposal Form. Any incorrect entries or inaccurate calculations by the Offeror will be treated as provided in COMAR 21.05.03.03E.

By submitting a Technical Proposal and this Price Proposal, the undersigned hereby declares to have carefully examined all documents, attachments and reference materials described within this RFP and Contract document. The undersigned further proposes and agrees to furnish all services necessary for the performance of the above referenced Contract for the Maryland Energy Administration in accordance with the RFP and all other documents referenced by the RFP including all attachments and Addenda issued by MEA.

The Fixed Price Deliverables submitted by the Offeror via this Price Proposal shall be fully loaded, including all direct and indirect costs and firm for the full term of the Contract. **Travel expenses will not be reimbursed.** The number of days in Price Sheet F-2 is provided for evaluation purposes and does not represent a minimum or maximum number of observer days, nor do the numbers of days represent a guaranteed level of service. If, for example, the ship has an observer capacity of four and the length of the time at sea is 30 days, then the maximum number of available observer days would be 120.

Provide the total price for all services specified in the below price sheets.

Price Sheet G-1

Line	Project Phase Pricing (See RFP Sec 2.1.4)	Price
1	Mobilization	\$
2	Excursion Operations	\$
3	Post Excursion Data Analysis and Report Submission	\$
4	Sum of Rows 1 – 3 = Total Contract Fixed Price	\$

Price Sheet G-2

<u>A</u> Observer Day Price (One Day & One Person) (Ref RFP Sec 2.5)	<u>B</u> Evaluated Number of Days	<u>C</u> Total Price (A x B = C)
\$	<u>120</u>	\$

Total Evaluated Price

<u>G1, Line 4 + G2, Col C = Total Evaluated Price</u>	\$
--	----

Authorized Signature_____

Printed Name & Title:_____

Company Name:_____

Address:_____

Office Telephone:_____

Office Fax No.:_____

FEIN:_____

Email: _____

ATTACHMENT H - NON-DISCLOSURE AGREEMENT

THIS NON-DISCLOSURE AGREEMENT ("Agreement") is made as of this ____ day of _____, 2012, by and between the State of Maryland ("the State"), acting by and through its Maryland Energy Administration (the "Department") and _____ ("Contractor").

RECITALS

WHEREAS, the Contractor has been awarded a contract (the "Contract") for High Resolution Geophysical Resource Survey For the Maryland Energy Administration PROJECT NO. DEXR240005, (the "RFP"); and

WHEREAS, in order for the Contractor to perform the work required under the Contract, it may be necessary for the State to provide the Contractor and the Contractor's employees and agents (collectively the "Contractor's Personnel") with access to certain confidential information regarding potential areas of sensitive habitat, fisheries information, locations of sensitive archaeological sites, or other sensitive information pertaining to the execution of this geophysical survey (the "Confidential Information").

NOW, THEREFORE, in consideration of being given access to the Confidential Information in connection with the RFP and the Contract, and for other good and valuable consideration, the receipt and sufficiency of which the parties acknowledge, the parties do hereby agree as follows:

1. Confidential Information means any and all information provided by or made available by the State to the Contractor in connection with the Contract, regardless of the form, format, or media on or in which the Confidential Information is provided and regardless of whether any such Confidential Information is marked as such. Confidential Information includes, by way of example only, information that the Contractor views, takes notes from, copies (if the State agrees in writing to permit copying), possesses or is otherwise provided access to and use of by the State in relation to the Contract.

2. Contractor shall not, without the State's prior written consent, copy, disclose, publish, release, transfer, disseminate, use, or allow access for any purpose or in any form, any Confidential Information provided by the State except for the sole and exclusive purpose of performing under the Contract. Contractor shall limit access to the Confidential Information to the Contractor's Personnel who have a demonstrable need to know such Confidential Information in order to perform under the Contract and who have agreed in writing to be bound by the disclosure and use limitations pertaining to the Confidential Information. The names of the Contractor's Personnel are attached hereto and made a part hereof as Exhibit A. Each individual whose name appears on Exhibit A shall execute a copy of this Agreement and thereby be subject to the terms and conditions of this Agreement to the same extent as the Contractor. Contractor shall update Exhibit A by adding additional names as needed, from time to time.

3. If the Contractor intends to disseminate any portion of the Confidential Information to non-employee agents who are assisting in the Contractor's performance of the RFP or who will otherwise have a role in performing any aspect of the RFP, the Contractor shall first obtain the written consent of the State to any such dissemination. The State may grant, deny, or condition any such consent, as it may deem appropriate in its sole and absolute subjective discretion.

4. Contractor hereby agrees to hold the Confidential Information in trust and in strictest confidence, to adopt or establish operating procedures and physical security measures, and to take all other measures necessary to protect the Confidential Information from inadvertent release or disclosure to unauthorized third parties and to prevent all or any portion of the Confidential Information from falling into the public domain or into the possession of persons not bound to maintain the confidentiality of the Confidential Information.

5. Contractor shall promptly advise the State in writing if it learns of any unauthorized use, misappropriation, or disclosure of the Confidential Information by any of the Contractor's Personnel or the Contractor's former Personnel. Contractor shall, at its own expense, cooperate with the State in seeking injunctive or other equitable relief against any such person(s).

6. Contractor shall, at its own expense, return to MEA all copies of the Confidential Information in its care, custody, control or possession upon request of MEA or on termination of the Contract.

7. A breach of this Agreement by the Contractor or by the Contractor's Personnel shall constitute a breach of the Contract between the Contractor and the State.

8. Contractor acknowledges that any failure by the Contractor or the Contractor's Personnel to abide by the terms and conditions of use of the Confidential Information may cause irreparable harm to the State and that monetary damages may be inadequate to compensate the State for such breach. Accordingly, the Contractor agrees that the State may obtain an injunction to prevent the disclosure, copying or improper use of the Confidential Information. The Contractor consents to personal jurisdiction in the Maryland State Courts. The State's rights and remedies hereunder are cumulative and the State expressly reserves any and all rights, remedies, claims and actions that it may have now or in the future to protect the Confidential Information and/or to seek damages from the Contractor and the Contractor's Personnel for a failure to comply with the requirements of this Agreement. In the event the State suffers any losses, damages, liabilities, expenses, or costs (including, by way of example only, attorneys' fees and disbursements) that are attributable, in whole or in part to any failure by the Contractor or any of the Contractor's Personnel to comply with the requirements of this Agreement, the Contractor shall hold harmless and indemnify the State from and against any such losses, damages, liabilities, expenses, and/or costs.

9. Contractor and each of the Contractor's Personnel who receive or have access to any Confidential Information shall execute a copy of an agreement substantially similar to this Agreement and the Contractor shall provide originals of such executed Agreements to the State.

10. The parties further agree that:

- a. This Agreement shall be governed by the laws of the State of Maryland;
- b. The rights and obligations of the Contractor under this Agreement may not be assigned or delegated, by operation of law or otherwise, without the prior written consent of the State;
- c. The State makes no representations or warranties as to the accuracy or completeness of any Confidential Information;
- d. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement; High Resolution Geophysical Resource Survey For the Maryland Energy Administration, PROJECT NO. DEXR240005e. Signatures exchanged by facsimile are effective for all purposes hereunder to the same extent as original signatures; and
- f. The Recitals are not merely prefatory but are an integral part hereof.

Contractor/ Contractor's Personnel:

Maryland Energy Administration:

By: _____(SEAL)

By: _____

Printed Name and Title: _____

Printed Name and Title _____

Date: _____

Date: _____

EXHIBIT A
CONTRACTOR'S EMPLOYEES AND AGENTS
WHO WILL BE GIVEN ACCESS TO THE CONFIDENTIAL INFORMATION

Printed Name and Address of Individual/Agent	Employee (E) or Agent (A)	Signature	Date
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

ATTACHMENT I – CONFLICT OF INTEREST AFFIDAVIT/DISCLOSURE

A. "Conflict of interest" means that because of other activities or relationships with other persons, a person is unable or potentially unable to render impartial assistance or advice to the State, or the person's objectivity in performing the contract work is or might be otherwise impaired, or a person has an unfair competitive advantage.

B. "Person" has the meaning stated in COMAR 21.01.02.01B(64) and includes a bidder, Offeror, Contractor, consultant, or subcontractor or subconsultant at any tier, and also includes an employee or agent of any of them if the employee or agent has or will have the authority to control or supervise all or a portion of the work for which a bid or offer is made.

C. The bidder or Offeror warrants that, except as disclosed in §D, below, there are no relevant facts or circumstances now giving rise or which could, in the future, give rise to a conflict of interest.

D. The following facts or circumstances give rise or could in the future give rise to a conflict of interest (explain in detail—attach additional sheets if necessary):

E. The bidder or Offeror agrees that if an actual or potential conflict of interest arises after the date of this affidavit, the bidder or Offeror shall immediately make a full disclosure in writing to the procurement officer of all relevant facts and circumstances. This disclosure shall include a description of actions which the bidder or Offeror has taken and proposes to take to avoid, mitigate, or neutralize the actual or potential conflict of interest. If the contract has been awarded and performance of the contract has begun, the Contractor shall continue performance until notified by the procurement officer of any contrary action to be taken.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF.

Date: _____ By: _____
(Authorized Representative and Affiant)

ATTACHMENT J– LIVING WAGE REQUIREMENTS FOR SERVICE CONTRACTS

Living Wage Requirements for Service Contracts

- A. This contract is subject to the Living Wage requirements under Title 18, State Finance and Procurement Article, Annotated Code of Maryland and the regulations proposed by the Commissioner of Labor and Industry. The Living Wage generally applies to a Contractor or Subcontractor who performs work on a State contract for services that is valued at \$100,000 or more. An employee is subject to the Living Wage if he/she is at least 18 years old or will turn 18 during the duration of the contract; works at least 13 consecutive weeks on the State Contract and spends at least one-half of the employee's time during any work week on the State Contract.
- B. The Living Wage Law does not apply to:
- (1) A Contractor who:
 - (A) has a State contract for services valued at less than \$100,000, or
 - (B) employs 10 or fewer employees and has a State contract for services valued at less than \$500,000.
 - (2) A Subcontractor who:
 - (A) performs work on a State contract for services valued at less than \$100,000,
 - (B) employs 10 or fewer employees and performs work on a State contract for services valued at less than \$500,000, or
 - (C) performs work for a contractor not covered by the Living Wage Law as defined in B(1)(B) above, or B (3) or C below.
 - (3) Service contracts for the following:
 - (A) services with a Public Service Company;
 - (B) services with a nonprofit organization;
 - (C) services with an officer or other entity that is in the Executive Branch of the State government and is authorized by law to enter into a procurement ("Unit"); or
 - (D) services between a Unit and a County or Baltimore City.

- C. If the Unit responsible for the State contract for services determines that application of the Living Wage would conflict with any applicable Federal program, the Living Wage does not apply to the contract or program.
- D. A Contractor must not split or subdivide a State contract for services, pay an employee through a third party, or treat an employee as an independent contractor or assign work to employees to avoid the imposition of any of the requirements of Title 18, State Finance and Procurement, Annotated Code of Maryland.
- E. Each Contractor/Subcontractor, subject to the Living Wage Law, shall post in a prominent and easily accessible place at the work site(s) of covered employees a notice of the Living Wage Rates, employee rights under the law, and the name, address, and telephone number of the Commissioner.
- F. The Commissioner of Labor and Industry shall adjust the wage rates by the annual average increase or decrease, if any, in the Consumer Price Index for all urban consumers for the Washington/Baltimore metropolitan area, or any successor index, for the previous calendar year, not later than 90 days after the start of each fiscal year. The Commissioner shall publish any adjustments to the wage rates on the Division of Labor and Industry's Website. An employer subject to the Living Wage Law must comply with the rate requirements during the initial term of the contract and all subsequent renewal periods, including any increases in the wage rate, required by the Commissioner, automatically upon the effective date of the revised wage rate.
- G. A Contractor/Subcontractor who reduces the wages paid to an employee based on the employer's share of the health insurance premium, as provided in §18-103(c), State Finance and Procurement Article, Annotated Code of Maryland, shall not lower an employee's wage rate below the minimum wage as set in §3-413, Labor and Employment Article, Annotated Code of Maryland. A Contractor/Subcontractor who reduces the wages paid to an employee based on the employer's share of health insurance premium shall comply with any record reporting requirements established by the Commissioner of Labor and Industry.
- H. A Contractor/Subcontractor may reduce the wage rates paid under §18-103(a), State Finance and Procurement, Annotated Code of Maryland, by no more than 50 cents of the hourly cost of the employer's contribution to an employee's deferred compensation plan. A Contractor/Subcontractor who reduces the wages paid to an employee based on the employer's contribution to an employee's deferred compensation plan shall not lower the employee's wage rate below the minimum wage as set in §3-413, Labor and Employment Article, Annotated Code of Maryland.
- I. Under Title 18, State and Finance Procurement Article, Annotated Code of Maryland, if the Commissioner determines that the Contractor/Subcontractor violated a provision of this title or regulations of the Commissioner, the

Contractor/Subcontractor shall pay restitution to each affected employee, and the State may assess liquidated damages of \$20 per day for each employee paid less than the Living Wage.

- J. Information pertaining to reporting obligations may be found by going to the DLLR Website <http://www.dllr.state.md.us/> and clicking on Living Wage.

ATTACHMENT K – AFFIDAVIT, MARYLAND LIVING WAGE REQUIREMENT

Affidavit of Agreement

Maryland Living Wage Requirements-Service Contracts

Contract No. _____

Name of Contractor _____

Address _____

City _____ State _____ Zip Code _____

If the Contract is Exempt from the Living Wage Law

The Undersigned, being an authorized representative of the above named Contractor, hereby affirms that the Contract is exempt from Maryland's Living Wage Law for the following reasons (check all that apply):

- _____ Bidder/Offeror is a nonprofit organization
- _____ Bidder/Offeror is a public service company
- _____ Bidder/Offeror employs 10 or fewer employees and the proposed contract value is less than \$500,000
- _____ Bidder/Offeror employs more than 10 employees and the proposed contract value is less than \$100,000

If the Contract is a Living Wage Contract

A. The Undersigned, being an authorized representative of the above named Contractor, hereby affirms our commitment to comply with Title 18, State Finance and Procurement Article, Annotated Code of Maryland and, if required, to submit all payroll reports to the Commissioner of Labor and Industry with regard to the above stated contract. The Bidder/Offeror agrees to pay covered employees who are subject to living wage at least the living rate in effect at the time service is provided for hours spent on State contract activities, and to ensure that its Subcontractors who are not exempt also pay the required living wage rate to their covered employees who are subject to the living wage for hours spent on a State contract for services. The Contractor agrees to comply with, and ensure its Subcontractors comply with, the rate requirements during the initial term of the contract and all subsequent renewal periods, including any increases in the wage rate established by the Commissioner of Labor and Industry, automatically upon the effective date of the revised wage rate.

Affidavit of Agreement
Maryland Living Wage Requirements-Service Contracts

B. _____ (initial here if applicable) The Bidder/Offeror affirms it has no covered employees for the following reasons: (check all that apply):

- _____ All employee(s) proposed to work on the contract will spend less than one-half of the employee's time during every work week on the State contract;
- _____ All employee(s) proposed to work on the contract will be 17 years of age or younger during the duration of the contract; or
- _____ All employee(s) proposed to work on the contract will work less than 13 consecutive weeks on the State contract.

The Commissioner of Labor and Industry reserves the right to request payroll records and other data that the Commissioner deems sufficient to confirm these affirmations at any time.

Name of Authorized
Representative: _____

Signature of Authorized Representative

Date

Title

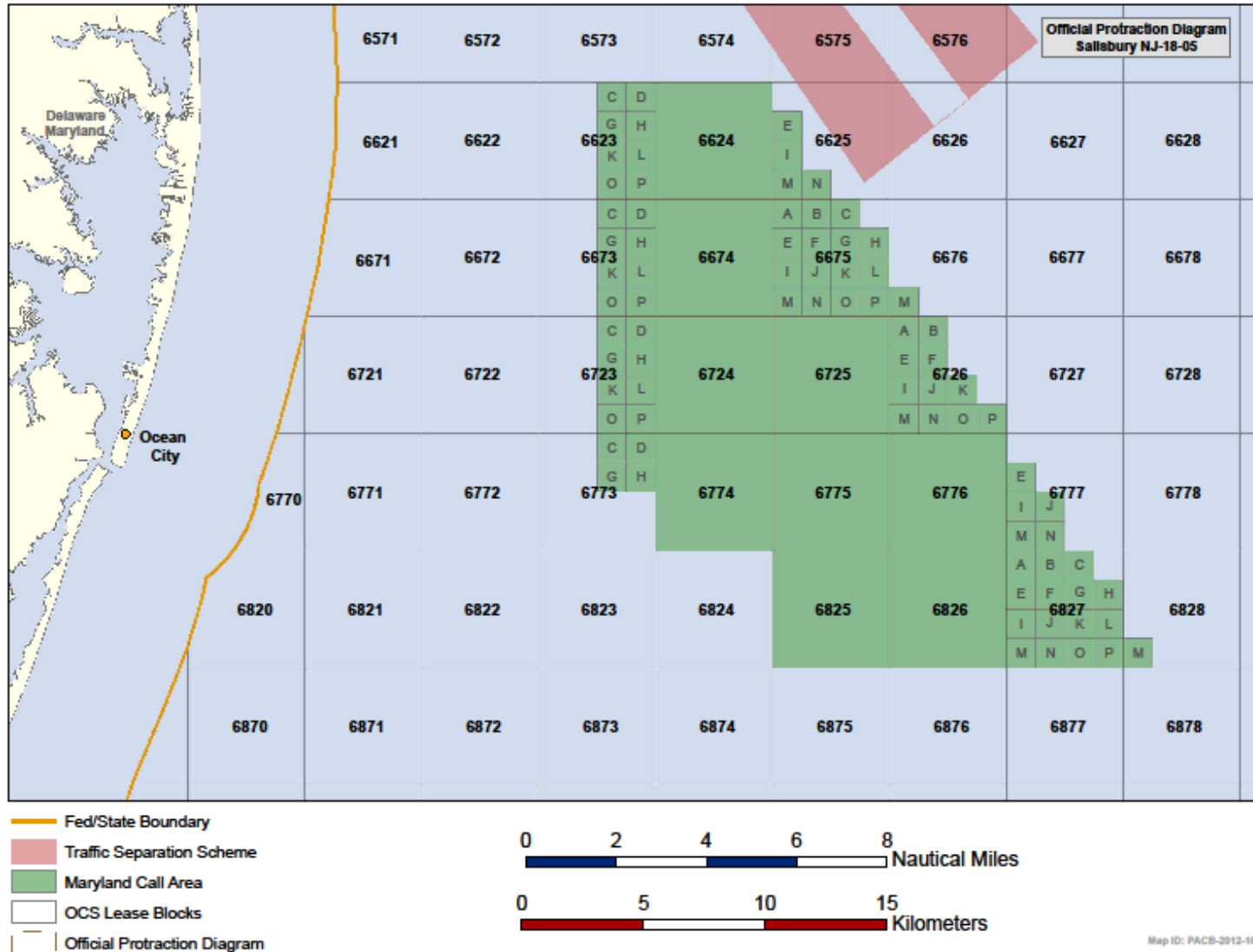
Witness Name (Typed or Printed)

Witness Signature

Date

ATTACHMENT L – Maryland's Wind Energy Area (WEA)

BOEM Maryland Call for Information and Nominations Area



ATTACHMENT M – DELIVERABLES SUBMISSION FORM
--

**STATE OF MARYLAND
Maryland Energy Administration**

MEA RECEIPT OF DELIVERABLE FORM

Contract: DEXR240005

I acknowledge receipt of the following:

Project Name: High Resolution Geophysical Resource Survey

Title of Deliverable: _____

RFP Reference Section Number: _____

Deliverable Reference ID Number: _____

Name of Contract Manager: _____

Contract Manager Signature

Date Signed

Name of Contractor's Project Manager: _____

Contractor's Project Manager Signature

Date Signed

ATTACHMENT N – DELIVERABLES ACCEPTANCE FORM

**STATE OF MARYLAND
Maryland Energy Administration**

MEA ACCEPTANCE OF DELIVERABLE FORM

Contract: DEXR240005

Project Manager: _____ **Telephone:** _____ **Fax:** _____

To: Contractor's Project Manager

The following deliverable, as required by Contract DEXR240005, has been received and reviewed in accordance with the Contract.

Title of deliverable: _____

RFP Contract Reference Number: Section # _____

Deliverable Reference ID # _____

This deliverable:

☐ Is accepted as written.

☐ Requires changes as indicated below.

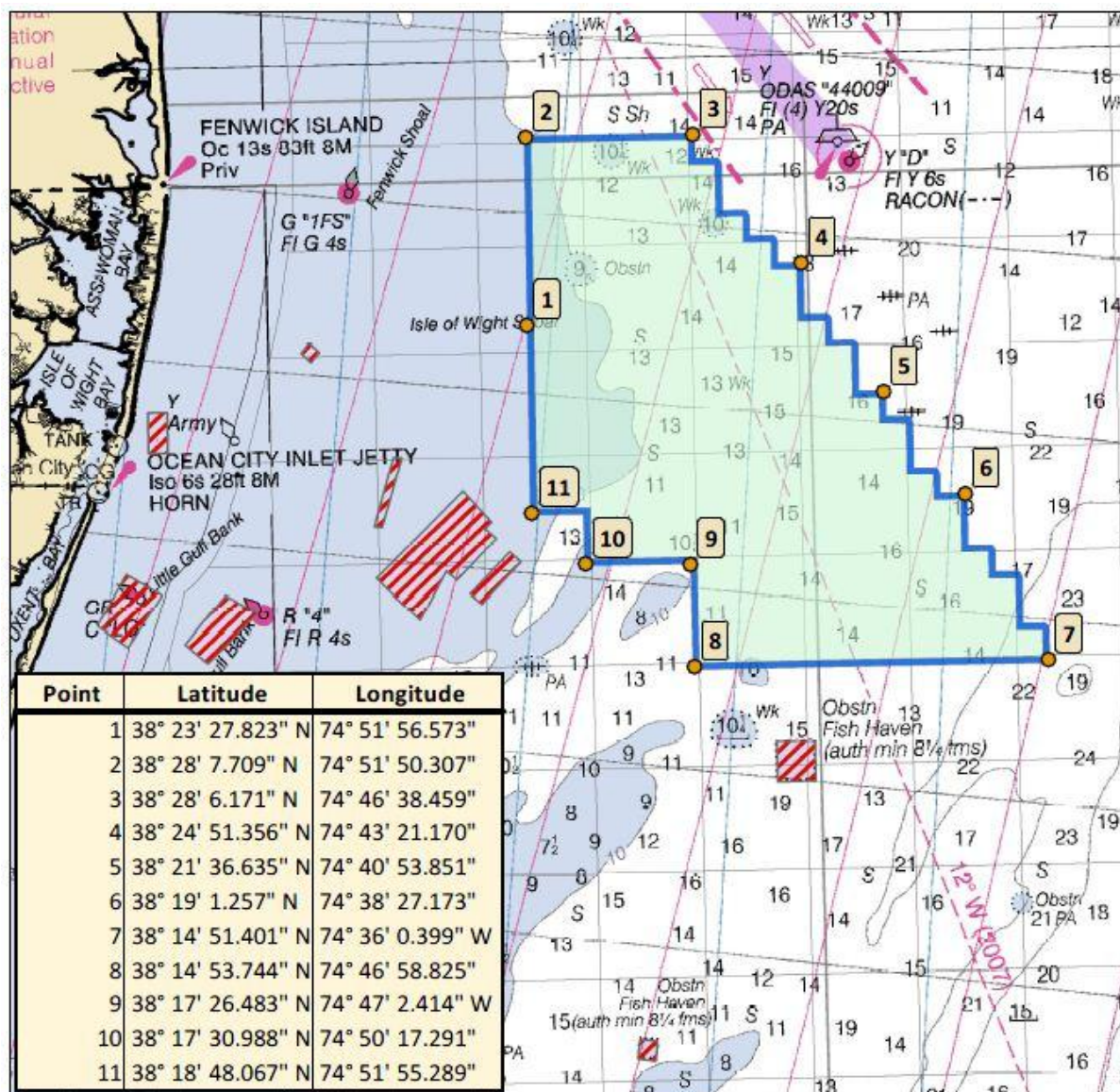
REQUIRED CHANGES:

OTHER COMMENTS:

Contract Manager Signature

Date Signed

ATTACHMENT O – STUDY AREA



The Maryland Wind Energy Area (WEA) boundary was drawn using the U.S. Outer Continental Shelf lease block and aliquot data layer. A 1000-foot buffer was created around the outer-most portion of the WEA.

Point coordinates along outer edge of the buffered area are approximate locations shown for informational purposes. The buffered area represents approximately 28.5 square kilometers.

July 2012



Maryland Department of Natural Resources
Chesapeake & Coastal Service
580 Taylor Ave E-2 Annapolis, MD 21401
410-260-8732 or 1-877-620-8DNR x8732
dnr.maryland.gov

Martin O'Malley
Governor
Anthony G. Brown
Lt. Governor
John R. Griffin
Secretary

